

# CITY COUNCIL PROCEEDINGS

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## MINUTES OF THE MEETING OF THE CITY COUNCIL

Wichita, Kansas, October 12, 2004  
Tuesday, 9:08 A.M.

The City Council met in regular session with Mayor Mayans in the Chair. Council Members Brewer, Fearey, Gray, Lambke, Martz, Schlapp; present.

George Kolb, City Manager; Gary Rebenstorf, Director of Law; Karen Sublett, City Clerk; present.

Michael Pisciotte, Islamic, gave the invocation.

The pledge of allegiance to the flag was participated in by the Council Members, staff, and guests.

The Minutes of the September 28, 2004, Consent/Workshop Meeting were approved 7 to 0.

### AWARDS AND PROCLAMATIONS:

Proclamations

Diana Cubbage-Kids Voting Sedgwick County Day.

Kay Johnson and Group-World Water Monitoring Day.

Phil Hayes-Hreach Week.

KPTA AWARD

### KPTA "TRANSIT SYSTEM OF THE YEAR" AWARD.

General Manager of the Wichita Transit, Jay Banasiak, and group were the recipients of this award.

### PUBLIC AGENDA:

Jim Lawing

### JIM LAWING-THE PATRIOT ACT.

Mr. Lawing reported that whenever a national crisis occurs there are two ways of dealing with it and one is "don't just stand there do something" and the other is "don't just do something, stand there". Stated that instances where our civil liberties are at interest we have to take the later approach and use thoughtful analysis before we take action. Stated that this did not happen with the passage of the USA Patriot Act. Stated that both Congress and the Administration rushed to get something done. Stated that if we are not Americans with our unique civil rights then America as we know it has ceased to exist. Stated that he had presented to the Council a draft of a measure that he used and a resolution that has been adopted by the League of Municipalities and that there are at least six measures that he pointed out that are on the chopping block for sunseting for next year. Stated that he is not urging the Council to vote on the matter today but to look at the resolution and study the matter.

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Mirko D'Angelo

## **MIRKO D'ANGELO-AMBASSADOR TO THE WICHITA SUPPORTING THE ARTS CAMPAIGN.**

Mr. D'Angelo explained that the Wichita Supporting the Arts Campaign is a privately funded effort to promote the vibrant arts community in Wichita and they do not rely on any taxpayer dollars or City, funds rather it is being made possible, thanks to 10 companies listed in the Arts Support Guide. Stated that the campaign endorsers include the Greater Wichita Convention and Visitor's Bureau, the Arts Council, Arts Partners, the Wichita Business Journal and the Wichita Downtown Development Corporation. Stated that they are making direct appeals for support and sponsors of supporting arts independently including the recent City Arts Kids Supply Drive. Mr. D'Angelo is asking that the City Council help provide volunteers and challenge the City Council to facilitate volunteerism for the arts among all of the City's employees.

Tommy Thomas

## **TOMMY THOMAS-COOPERATION BETWEEN THE CITY OF WICHITA AND THE TAXPAYERS AND PROPERTY OWNERS AND UPDATING CITY ORDINANCES: NOISE AND TREE TRIMMING.**

Mr. Thomas stated that he has not received any cooperation from the City Staff regarding overgrown trees and shrubs that are magnets for debris and road trash, which turns into a dumping ground. Stated that there is an area in his neighborhood where the trees are overgrown and when he went to take care of the matter himself and try to clean up the area, the property owners called the police on him because it is the homeowners responsibility, but the homeowner refuses to do anything as far as cleaning it up and trimming back the trees. Stated if the City wants its citizens to get involved, then they have to make it easier for them to do so.

Dane Saksa &  
Steven James

## **DANE SAKSA AND STEVEN JAMES, WICHITA'S PROMISE YOUTH COUNCIL-ACTION 2003 RESULTS.**

Reported on the Action 2003 Results, which were conducted by focus groups with 850 youths from the Sedgwick County area. Reported that after the results were gathered and compiled it showed that the top five concerns of the youth in Sedgwick County were 1. teen sex/teen pregnancy; 2. violence; 3. drug abuse; 4. rape and 5. alcohol. Stated that the Wichita's Promise Youth Council intends to present the ACTION 2003 Results Packet to community leaders so adults will have the ability to be informed on youth concerns and take them into account in their decision-making. The Wichita's Promise Youth Council is currently addressing these concerns through committees and events. Reported that they had the people that were surveyed create solutions to these top five concerns.

## **CONSENT AGENDA**

Council Member Gray

Council Member Gray requested that Item 14c be pulled.

Mayor Mayans

Mayor Mayans requested that Items 15, 21 and 24 be pulled.

Motion--  
--carried

Mayans moved that the Consent Agenda be approved as consensus Items, except for Items 14c, 15, 21 and 24, which are to be pulled for discussion. Motion carried 7 to 0.

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## BIDS

### REPORT OF THE BOARD OF BIDS AND CONTRACTS DATED OCTOBER 4 AND OCTOBER 11, 2004.

PUBLIC WORKS DEPARTMENT/ENGINEERING DIVISION: Sewers, Paving and Water Mains as per specifications.

2004 Sanitary Sewer Reconstruction, Phase 12 - various locations north of MacArthur, between Broadway and Woodlawn. (468-83905/620418/664538) Traffic to be maintained during construction using flagpersons and barricades. (Districts I,II,III,IV)

W.B. Carter Construction – \$241,231.00

2004 Sanitary Sewer Rehabilitation, Phase F - various locations north of Harry, between Meridian and 143rd Street East. (468-83867/620417/664537) Traffic to be maintained during construction using flagpersons and barricades. (Districts II,III,IV,VI)

Wildcat Construction - \$214,163.20

Water Distribution System to serve Shadow Woods Addition - north of Maple, west of 135th Street West. (448-89792/735218/470888) Does not affect existing traffic. (District V)

Duling Construction - \$82,015.00

Water Distribution System to serve Blue Lake Addition - south of 31st Street South, west of West Street. (448-89988/735217/470887) Does not affect existing traffic. (District IV)

Duling Construction - \$30,626.00

Lateral 1, Main 22 Southwest Interceptor Sewer to serve Blue Lake Addition - south of 31st Street South, west of West Street. (468-83862/744086/480774) Does not affect existing traffic. (District IV)

Duling Construction - \$187,492.00

Kinkaid Circle from the east line of Brentwood South Second Addition to and including the cul-de-sac to serve Brentwood South Second Addition - north of Pawnee, east of Webb. (472-83994/765876/490987) Does not affect existing traffic. (District II)

Kansas Paving Company - \$97,403.67

Lateral 369, Four Mile Creek Sewer to serve Brentwood South Second Addition - north of Pawnee, east of Webb. (468-83802/744057/480745) Does not affect existing traffic. (District II)

Mies Construction - \$95,267.00 (negotiated at Engineer's estimate)

Lincoln Park Tennis Court Removal - east of Broadway, south of Lincoln. (472-84113/785041/394173) Does not affect existing traffic. (District I)

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Cornejo & Sons Construction - \$13,022.00

Westlakes Court serving Lots 1 through 9, Block 1, from the north line of Westlakes Parkway to and including the cul-de-sac; Westlakes Court serving Lots 10 through 18, Block 1, from the north line of Westlakes Parkway to and including the cul-de-sac; Westlakes Court serving Lots 19 through 45, Block 1, from the north line of Westlakes Parkway to and including the cul-de-sac; Westlakes Court serving Lots 1 through 13, Block 4, from the west line of Westlakes Parkway to and including the cul-de-sac; Westlakes Parkway from the east line of Maize Road to the west line of Lot 45, Block 1; Sidewalk on the north side on Westlakes Parkway from the east line of Maize to the west line of Lot 45, Block 1 to serve Fox Ridge Addition - north of 29th Street North, east of Maize. (472-84025/ 765878/490989) Does not affect existing traffic. (District V)

Ritchie Paving - \$536,316.15

Motion --

Mayans moved that the contract(s) be awarded as outlined above, subject to check, same being the lowest and best bid within the Engineer's construction estimate, and the and the necessary signatures be authorized. Motion carried 7 to 0.

-- carried

PARK & RECREATION DEPARTMENT/RECREATION DIVISION: Concrete Pathway Improvements.

Merry Tehnology Inc. - \$20,500.000 (Group 1 total net bid)  
\$11,220.00 (Group 2 total net bid)

AIRPORT AUTHORITY/AIRFIELD MAINTENANCE DIVISION: Liquid Deicer for Runways.

Cryotech Deicing Technology - \$26,400.00\* (Group 1 total net bid)  
\*Estimate – Contract approved on unit cost basis.

FIRE DEPARTMENT/SAFETY DIVISION: Motorola Radios.

Motorola, Inc.\* - \$10,216.80 (State of Kansas Contract #28440; 800 MHz Motorola Radio Equipment)  
\*Purchases utilizing Government Entities Contracts, Cooperative Contracts and Agreements/Ordinance No. 38-122 Section 2.64.020 (j).

Motion --

Mayans moved that the contract(s) be awarded as outlined above, same being the lowest and best bid, and the necessary signatures be authorized. Motion carried 7 to 0.

-- carried

CMB

## APPLICATIONS FOR LICENSES TO RETAIL CEREAL MALT BEVERAGES:

<u>Renewal</u>	<u>2004</u>	<u>(Consumption on Premises)</u>
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Dennis H. Grandy	Wichita Canteen Company, Inc.*	1845 Fairmount
Jo Lynn Blood	Pine Bay Golf Course, Inc.*	6615 South Grove

<u>Renewal</u>	<u>2004</u>	<u>(Consumption off Premises)</u>
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Thuy Nguyen	Quick Pick	3733 North Arkansas
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<u>New Operator</u>	<u>2004</u>	<u>(Consumption on Premises)</u>
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Canh Pham	Canh's Cuisine Vietnamese Restaurant*	1410 North Broadway
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## Special Event

October 23-24, 2004

Delfino Morillon

Treco

2200 North Broadway

\*General/Restaurant - 50% or more of gross receipts derived from sale of food.

Motion--  
--carried

Mayans moved that the licenses be approved subject to Staff review and approval. Motion carried 7 to 0.

## **PRELIMINARY EST. PRELIMINARY ESTIMATES:**

- a) First and Second Street West Outfall - along First and Second Streets from West Street to Athenian, thence to the river. (562-864401/660795/864401) Traffic to be maintained during construction using flagpersons and barricades. (District VI, IV) - \$7,500,000.00
- b) Water main replacement along Athenian - along Athenian from Second Street to McLean. (448-89905/634035/773206) Traffic to be maintained during construction using flagpersons and barricades. (District VI, IV) - \$129,999.99
- c) Kellogg Avenue (US 54)/Rock Road Interchange, Part 4: Grading, Concrete Pavement, Utilities and Seeding (temporary) for Armour Road north of Kellogg (472-84094/702341/401352) Traffic to be maintained during construction using flagpersons and barricades. (District II) - \$935,777.25
- d) City View from Maple to the southerly line of City View; Sheriac Circle (Lots 1 through 13, and 20 through 22, Block B), from the west line of City View to and including cul-de-sac; Sheriac Court from the north line of Sheriac Circle to and including cul-de-sac; sidewalk on one side of City View to serve Shadow Woods Addition (north of Maple, west of 135th Street West) (472-83759/765890/490003) Does not affect existing traffic. (District V) - \$245,000.00
- e) 2004 Planeview Sanitary Sewer Reconstruction, Phase 2 (south of Pawnee, east of Hillside) (468-83890/622241/644349) Traffic to be maintained during construction using flagpersons and barricades. (District III) - \$278,049.20
- f) Lateral 32, Main 2 Southwest Interceptor Sewer to serve Bartlow Second Addition (east of Seneca, north of 47th Street North) (468-83847/744070/480758) Traffic to be maintained during construction using flagpersons and barricades. (District IV) - \$10,400.00
- g) 2004-2005 Traffic Signalization Program, Phase IV: Install Traffic Signals at 21st Street North & 127th Street East (472-84072/706911/204377) Traffic to be maintained during construction using flagpersons and barricades. (District II) - \$79,510.00
- h) Elm, Sheridan to Mt. Carmel to serve Simpson's Addition, S.A. King's Addition, Lemon 4th Addition (west of Meridian, north of Central) (472-83950/765867/490978) Traffic to be maintained during construction using flagpersons and barricades. (District VI) - \$50,000.00
- i) 2004 Sanitary Sewer Reconstruction, Phase 12 - (various locations north of MacArthur, between Broadway and Woodlawn. (468-83905/620418/664538) Traffic to be maintained during construction using flagpersons and barricades. (Districts I,II,III,IV) - \$424,000.00
- j) 2004 Sanitary Sewer Rehabilitation, Phase F - various locations north of Harry, between Meridian and 143rd Street East. (468-83867/620417/664537) Traffic to be maintained during construction using flagpersons and barricades. (Districts II,III,IV,VI) - \$260,000.00

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- k) Water Distribution System to serve Shadow Woods Addition - north of Maple, west of 135th Street West. (448-89792/735218/470888) Does not affect existing traffic. (District V) - \$59,000.00
- l) Water Distribution System to serve Blue Lake Addition - south of 31st Street South, west of West Street. (448-89988/735217/470887) Does not affect existing traffic. (District IV) - \$151,000.00
- m) Lateral 1, Main 22 Southwest Interceptor Sewer to serve Blue Lake Addition - south of 31st Street South, west of West Street. (468-83862/744086/480774) Does not affect existing traffic. (District IV) - \$434,000.00

Motion--carried

Mayans moved that the file be approved. Motion carried 7 to 0.

## **DEEDS/EASEMENTS    DEEDS AND EASEMENTS:**

- a) Sanitary Sewer Easement dated September 20, 2004 from Entertainment Enterprises, Inc. for a tract of land located in the northwest quarter of the Southeast Quarter of Section 30, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas (L36, M1, CIS, OCA #744005). No cost to City.
- b) Utility Easement dated June 17, 2004 from Caro Properties, LLC for a tract of land located in Lot 3, Block 1, Frank and Johnny's Addition, an addition to Wichita, Sedgwick County, Kansas (Private Project, OCA #607861). No cost to City.
- c) Facade Easement from Delano Barbecue Partners, LLC for a tract of land located in Lot 71 on Chicago, now Douglas Avenue, West Wichita Addition to Wichita, Sedgwick County, Kansas (Facade Improvement Program, OCA #132019). No cost to City.
- d) Facade Easement from Queen Lakes II for tracts of land located in Lots 109 and 111 on Douglas Avenue, Reserve in Greiffenstein's Addition to Wichita, Sedgwick County, Kansas (Facade Improvement Program, OCA #132019). No cost to City.
- e) Facade Easement from Johnnie Bell and Laurestine Bell for tracts of land located in Lots 46, 48, 50, 52, 54, and 56 Kelsch's Resurvey Addition to Wichita, Sedgwick County, Kansas (Facade Improvement Program, OCA #132019). No cost to City.
- f) Facade Easement from Olympus, Inc. for tracts of land located in Lots 79, 81, 83, 85 and 87 on Douglas Avenue, Greiffenstein's Addition to Wichita, Sedgwick County, Kansas (Facade Improvement Program, OCA #132019). No cost to City.
- g) Facade Easement from Tony Abdayem and Micheline Abdayem for tracts of land located in Lots 6, 8, 10, 12 and 14 on Chicago, now Douglas Avenue, West Wichita Addition to Wichita, Sedgwick County, Kansas (Facade Improvement Program, OCA #132019). No cost to City.

Motion--carried

Mayans moved that the documents be accepted. Motion carried 7 to 0.

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**PINAIRE ADD.**

**PETITION TO CONSTRUCT A SANITARY SEWER TO SERVE PART OF LOT 1, BLOCK 1, PINAIRE ADDITION, SOUTH OF HARRY, WEST OF WEST STREET. (DISTRICT IV)**

Agenda Report No. 04-0955

The Petition has been signed by one owner, representing 100% of the improvement district.

The project will provide sanitary sewer service to an industrial tract located south of Harry, west of West Street.

The Petition totals \$20,000. The funding source is special assessments.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or the majority of the property in the improvement district.

Motion--carried

Mayans moved that the Petition be approved and the Resolution adopted. Motion carried 7 to 0.

**RESOLUTION NO. 04-547**

Resolution of findings of advisability and Resolution authorizing construction of Lateral 14, Main 14, Southwest Interceptor Sewer (south of Harry, west of West Street) 468-83909, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

**REED'S COVE ADD.**

**CONSTRUCT A SIDEWALK IN RESERVE A, REED'S COVE ADDITION, SOUTH OF 21<sup>ST</sup> STREET EAST OF 127<sup>TH</sup> STREET EAST. (DISTRICT II)**

Agenda Report No. 04-0956

The Petition has been signed by eight owners, representing 100% of the improvement district.

The project will improve pedestrian access to amenities within the Reed's Cove residential development located south of 21st, east of 127th Street East.

The Petition totals \$58,000. The funding source is special assessments.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or the majority of the property in the improvement district.

Motion--carried

Mayans moved that the Petition be approved and the Resolution adopted. Motion carried 7 to 0.

**RESOLUTION NO. 04-548**

Resolution of findings of advisability and Resolution authorizing improving sidewalk along the west side of Reserve A, Reed's Cove Addition (south of 21st, east of 127th Street East 472-84110, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

**PATTIE/GALENA**

**PAVE PATTIE FROM GALENA TO 42 FEET SOUTH OF GALENA, WEST OF HYDRAULIC, SOUTH OF 31<sup>ST</sup> STREET SOUTH. (DISTRICT III)**

Agenda Report No. 04-0957

The Petition has been signed by the President of the Wichita Public Schools Board, representing 100%

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of the improvement district.

The project will improve paved access to Wells Alternative School located south of Galena, west of Pattie.

The Petition totals \$20,000. The funding source is special assessments.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or the majority of the property in the improvement district.

Motion--carried

Mayans moved that the Petition be approved and the Resolution adopted. Motion carried 7 to 0.

## RESOLUTION NO. 04-549

Resolution of findings of advisability and Resolution authorizing improving Pattie from the south line of Galena South to a point 42' south of the north line of Block 3, Rainbow Second Addition (west of Hydraulic, south of 31st Street South) 472-84109, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## BOARDS MINUTES

### MINUTES OF ADVISORY BOARDS/COMMISSIONS:

Wichita Police and Fire Retirement meeting, August 20, 2004  
Wichita Public Library Board of Directors meeting, August 17, 2004  
City of Wichita Airport Advisory Board minutes, August 9, 2004  
District IV Advisory Board Meeting, August 4, 2004  
Board of Code Standards and Appeals minutes, August 2, 2004  
Board of Park Commissioners special meeting, July 26, 2004  
Wichita Employees Retirement System regular meeting minutes, July 21, 2004  
District IV Advisory Board Meeting, July 21, 2004  
Board of Electrical Appeals meeting minutes, July 13, 2004  
Board of Code Standards and Appeals meeting minutes, July 12, 2004  
District Advisory Board (DAB) I meeting minutes, July 12, 2004  
Board of Park Commissioners Park and Recreation regular meeting, July 12, 2004  
Wichita Airport Advisory Board minutes, July 6, 2004  
Wichita Employees Retirement Board Police & Fire Retirement Board minutes, July 1, 2004  
Police and Fire Retirement System regular board meeting minutes, June 23, 2004  
Wichita Employees Retirement System board meeting minutes, June 16, 2004  
District V Advisory Board revised minutes, June 9, 2004  
District IV Advisory Board Meeting, June 2, 2004  
District IV Advisory Board Meeting, May 20, 2004  
District V Advisory Board revised minutes, May 3, 2004  
District IV Advisory Board Meeting, April 7, 2004  
District IV Advisory Board Meeting, March 3, 2004  
District IV Advisory Board Meeting, February 18, 2004  
District IV Advisory Board Meeting, January 7, 2004

Motion--carried

Mayans moved that the file be received. Motion carried 7 to 0.



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## **STREET CLOSURES     CONSIDERATION OF STREET CLOSURES/USES.**

2004 Wichita Veteran's Day Parade, Saturday, November 6 – 11 am to 2:30 pm

- Main from 10th South to Douglas
- Elm and Main
- Main to Douglas
- Douglas west to Water
- Water north to 3rd Street

Wichita Symphony Orchestra Young People's Concerts, November 16, 17, 18 - 9:00 a.m. to 12:00 noon

- Century II Drive from Main Street north to Douglas Avenue
- Perimeter drive around the east side of Century II

Motion--                      Mayans moved that the request be approved subject to: 1) event sponsors notifying every property and/or business adjoining any portion of the closed street; 2) coordination of event arrangements with city Staff; 3) hiring off-duty public safety officers as required by the Police Department; 4) obtaining barricades to close the streets in accordance with requirements of Police, Fire, Public Works Department; 5) Submitting a Certificate of Insurance evidencing general liability Insurance, which covers the event and its related activities, including the naming of the City as an additional insured with respect to the events use of the closed City Streets. Motion carried 7 to 0.

--carried

## **CONT/AGRMNTS     CONTRACTS & AGREEMENTS; PROFESSIONAL CONTRACTS UNDER \$10,000; ANNUAL MAINTENANCE CONTRACTS OVER \$10,000 FOR SEPTEMBER 2004.**

Motion--carried                      Mayans moved that the report be received and filed. Motion carried 7 to 0.

## **HOMELESS SYSTEM     HOMELESS MANAGEMENT INFORMATION SYSTEM.**

Agenda Report 04-0959

On August 3, 2004 the City Council approved funding to provide a portion of the matching funds for the 2004 HUD Continuum of Care Supportive Housing Program (Homeless SuperNOFA) that will fund the continuation of the Homeless Management Information System managed by the United Way of the Plains.

United Way of the Plains will use funding from the 2004 HUD Continuum of Care Supportive Housing Program (Homeless SuperNOFA) to install additional hardware in homeless shelters, upgrade software, connectivity, training and personnel for the collection of homeless data for the Wichita-Sedgwick County community.

The grant application submitted to HUD totaling \$254,000 is a three-year grant and the local matching funds requirement is \$84,750. Sedgwick County has committed \$10,000 to the match requirement. The United Way will provide \$50,530, leaving a \$24,220 gap.

The City Council approved funding in the amount of \$24,220. CDBG funds from completed projects are available to provide matching funds for the 2004 SuperNOFA HMIS grant of \$24,220.

A contract has been negotiated with the United Way of the Plains and signed by authorized representative.

Motion--                      Mayans moved that the contract be approved and the necessary signatures authorized. Motion carried 7 to 0.

--carried

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## **GATEWAY CENTER    RESPREAD ASSESSMENTS: THE GATEWAY CENTER ADDITION, SOUTH OF 13<sup>TH</sup> STREET NORTH, EAST OF GREENWICH. (DISTRICT II)**

Agenda Report 04-0960

The landowners, Gateway Center, L.L.C. and Venture Seven Development, L.L.C. have submitted an Agreement to respread special assessments within the Addition.

The land was originally included in several improvement districts for a number of public improvement projects. The purpose of the Agreement is to respread special assessments from one parcel making it easier for the developer to market the lot.

There is no cost to the City.

Motion--                      Mayans moved that the Agreement be approved and the necessary signatures authorized.  
--carried                      Motion carried 7 to 0.

## **(Item 14c.) SITING STUDY                      SITING STUDY-SEWAGE TREATMENT PLANTS. (DISTRICTS IV, VI, II) - SUPPLEMENTAL.**

David Warren                      Water and Sewer Director reviewed the Item.

Agenda Report No. 04-0961

The 2000 Sanitary Sewer Master Plant Update recommended the construction of four new sewage treatment facilities. Satellite plants were recommended based on their cost versus the cost of upgrading existing facilities and the cost and disruption of extending infrastructure to transport sewage from new development areas to existing facilities. The first plant constructed under this plan, the Cowskin Creek Water Quality Reclamation Facility, was completed in February of 2003.

On March 4, 2003, the City Council approved a project to acquire professional assistance for siting three other satellite sewage treatment plants. On May 6, 2003, City Council approved a contract with Professional Engineering Consultants to provide those services.

Staff had originally planned to complete the siting analysis in approximately six months. Delays in beginning the project, not caused by the consultant, resulted in the project not starting until the spring of 2004. Additionally, the desire for public involvement on the front end of the study has resulted in more meetings and hours than the original contract scope had anticipated. As a result, PEC has fully expended the original contract amount and the siting study is not complete. Staff recommends that the City increase the project budget to complete the siting effort and approve a Supplemental Agreement with PEC.

The May 6, 2003, agreement with PEC was for \$75,340. The proposed Supplemental Agreement is for \$84,525. The project has been funded from CIP project S-522 (Plant Siting Study and Land Acquisition) that has a budget of \$1.2 million. Of this amount, \$200,000 was set aside for a plant siting evaluation and \$1 million for land acquisition.

Council Member Gray                      Council Member Gray asked for clarification on the \$9,200 increase from the \$75,000.00 original agreement to \$84,500 supplemental or is the supplemental agreement an additional \$84,000. Stated that he would like clarification on what the increase is.

Dave Warren                      Water and Sewer Director explained that the project that was originally envisioned included all of the district advisory boards meeting simultaneously with engineering and Staff and it was later decided that they would split those out and they would meet with them individually. Stated that he feels that this will avoid the necessity for him to come back to the Council at a later time on this project.

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Motion--  
--carried

Mayans moved that the Supplemental Agreement with PEC for \$84,525 be approved and the necessary signatures authorized. Motion carried 7 to 0.

## **ELECTRONIC SEC.**

### **ELECTRONIC SECURITY.**

Agenda Report No. 04-0962

On August 31, 2004, the City Council approved a Contract with Burns & McDonnell for \$120,960 to design electronic security enhancements. The agenda report stated that the Contract would be paid from Capital Improvement Program W-903, the water project.

The services apply to both water and sewer enhancements and infrastructure, so funding will come from both utilities. The Contract with Burns & McDonnell will be paid partially from W-903 (Water System Security Improvements) and partially from S-542 (Sewer System Security Improvements).

Funding is available in CIPs W-903 and S-542.

There are no legal considerations.

Motion--  
--carried

Mayans moved that paying the Contract from both Capital Improvement Projects be approved. Motion carried 7 to 0.

## **29<sup>TH</sup> STREET NORTH 29<sup>TH</sup> STREET NORTH FROM MAIZE TO TYLER. (DISTRICT V) – SUPPLEMENTAL.**

Agenda Report No. 04-0963

On April 16, 2002, the City entered into an Agreement with Baughman Company, P.A. for designing improvements to 29th Street North from Maize to Tyler. The fee was \$56,800.

At the time of the agreement the intersections of 29th at Maize and 29th at Tyler did not warrant signals. With the opening of the new Maize School at 37th and Tyler and the rapid commercial growth along Maize Road, signals are now needed at both intersections. This would include making revisions to the intersections to accommodate the new signal systems. The proposed Supplemental Agreement between the City and Baughman provides for additional design services for signals at 29th and Tyler and at 29th and Maize.

Payment to Baughman will be on a lump sum basis of \$22,000, and will be paid by General Obligation Bonds.

Motion--  
--carried

Mayans moved that the Supplemental Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

## **FOX RIDGE**

### **CONSTRUCTION ENGINEERING AND STAKING IN FOX RIDGE ADDITION, EAST OF MAIZE, NORTH OF 29<sup>TH</sup> STREET NORTH - SUPPLEMENTAL. (DISTRICT V)**

Agenda Report No. 04-0964

The City Council approved the water distribution system, sanitary sewer, storm water drainage and paving improvements in Fox Ridge Addition on May 18, 2004. On July 13, 2004, the City approved an Agreement with MKEC Engineering Consultants, Inc. to design the improvements. The Design Agreement with MKEC requires MKEC to provide construction engineering and staking services if requested by the City.

The proposed Supplemental Agreement between the City and MKEC provides for construction engineering and staking for the improvements. Due to the current workload created by previous projects, City crews are not available to perform the construction engineering for this project.

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Payment to MKEC will be on a lump sum basis of \$98,732, and will be paid by special assessments.

Motion--  
--carried

Mayans moved that the Supplemental Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

## WESTLINK DITCH

### **9<sup>TH</sup> STREET BRIDGE AT THE WESTLINK DITCH BETWEEN MAIZE AND TYLER - SUPPLEMENTAL. (DISTRICT V)**

Agenda Report No. 04-0965

On June 8, 2004, the City entered into an Agreement with Professional Engineering Consultants, P.A. (PEC) for designing improvements to the 9th Street Bridge over the Westlink Ditch. The fee was \$25,200.

PEC has been asked by the Water Department to relocate the existing water line at 9th and Westlink. The proposed Supplemental Agreement provides for the additional design services.

Payment to PEC will be on a lump sum basis of \$2,000, and will be paid by Operating Revenues.

Motion--  
--carried

Mayans moved that the Supplemental Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

## USGS

### **UNITED STATES GEOLOGICAL SURVEY (USGS) SURFACE AGREEMENT OCTOBER 1, 2004 THROUGH SEPTEMBER 30, 2005.**

Agenda Report No. 04-0966

In 1957, as a condition of Federal assistance in construction of the Wichita-Valley Center Flood Control Project, the City of Wichita entered into a cooperative agreement with the United States Geological Survey (USGS) to install and maintain stream recorders along the project. Rainfall recorders were added later for the City's own use.

The Department of Public Works uses recorders to monitor rainfall through the drainage basins affecting the project to determine volumes of incoming water. This collected data is transmitted to the weather bureau, which transmits the data to the River Forecast Center in Tulsa, Oklahoma. The data is statistically analyzed and published by USGS.

The Water Department monitors the flow of water into and out of Cheney Reservoir and relays the elevation of the lake to the Corps of Engineers.

The Agreement requires the City to pay \$33,271 of the \$57,560 total program cost, with USGS responsible for the balance of \$24,289. Budget for the City's cost is split between the Water & Sewer Department (\$17,661.00) and City-County Flood Control (\$15,610.00). These funds have been allocated in the appropriate operating budgets.

Motion--  
--carried

Mayans moved that the Joint Funding Agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

## ARSON STRIKE

### **SOUTH CENTRAL KANSAS ARSON STRIKE FORCE INTERLOCAL AGREEMENT.**

Agenda Report No. 04-0967

The South Central Kansas Arson Strike Force (SCKASF) was formed in 1998 in order to assist member public agencies with the investigation of fires and explosions. Current members are public agencies from Reno, Harvey, Sedgwick, Butler, McPherson, and Cowley Counties.

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The SCKASF is an association of public agencies whose purpose is to organize individuals and equipment from fire and law enforcement departments in the above referenced counties in order to provide assistance in fire and explosion related investigations. The members shall furnish to each other available equipment and personnel and assist in the investigation of fires and explosions, where such fires and explosions are beyond the investigative capabilities of the member agency. No member agency shall be obliged to furnish equipment and personnel if the commitment will weaken the fire protection to its primary response area. Each member waives all claims against the other for any loss, damage, personal injury or death occurring during a Strike Force response.

If a response is requested, the City of Wichita will be responsible for any wages the responder will earn during their absence from the City.

Motion--  
--carried

Mayans moved that the South Central Kansas Arson Strike Force Agreement be approved. Motion carried 7 to 0.

## (Item 15) 29<sup>TH</sup> ST. NORTH

### CHANGE ORDER: 29<sup>TH</sup> STREET NORTH, ROCK TO WEBB. (DISTRICT II)

Chris Carrier

Interim Public Works Director reviewed the Item.

Agenda Report No. 04-0968

On May 13, 2003, the City Council approved a construction contract to improve 29th Street North between Rock and Webb. During construction of the project, a number of unforeseen Items developed that should be addressed as a Change Order:

A bus stop was relocated away from a left turn lane. \$1,629

A storm sewer manhole location was changed to avoid conflict with gas and electric lines. Additional storm sewer pipe was required. \$4,203

Additional sidewalk was needed. \$3,897

Because of higher than expected vehicular traffic, a grassed masonry block surface for a secondary driveway entrance was replaced with a concrete surface. \$2,960

A Change Order has been prepared for the additional work. Funding is available within the project budget.

The cost of the additional work is \$12,689, with the total paid by a combination of City-at-Large (\$2,538) and Federal Grants administered by the Kansas Department of Transportation (\$10,151). The original contract is \$1,726,345. This Change Order plus five previously approved Change Orders represent 2.22% of the original contract amount.

The Change Order amount is within 25% of the construction contract cost limit set by the City Council policy.

Mayor Mayans

Mayor Mayans stated that his concern is the approval of a change order over the 25% of the City Council's policy and how these Items are were not originally contemplated as possible changes when the public improvements were made on the project.

Chris Carrier

Interim Public Works Director explained that the bus stop bench used to be located on the south side of 29<sup>th</sup> Street and this project added a right turn lane on Rock Road. Stated that they originally planned on leaving the bus stop at its old location but while they were in the process of constructing the right turn lane, their field people were approached by Wichita Transit representatives and advised that installation did not meet their standards as far a location of a bus stop bench. They requested that it be moved and the field staff found a location that would be suitable for everybody. This was a circumstance that they did not foresee. The other Items have to do with underground utilities. Stated that they have had a lot

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of trouble with getting the correct utility locate information when they do the design on these plans. Stated that when they do not get accurate locates during design, often it leads to a design as you build in the field situation, which is not what they want. They are working with the utility companies to try and get these issues resolved.

Motion--  
--carried

Mayans moved that the Change Order be approved and the necessary signatures authorized. Motion carried 7 to 0.

## CONDEMNATIONS

### REPAIR OR REMOVAL OF DANGEROUS AND UNSAFE STRUCTURES.

Agenda Report No. 04-0969

On September 13, 2004 the Board of Code Standards (BCSA) held a hearing on the following four (4) properties. These properties are considered dangerous and unsafe structures, and are being presented to schedule a condemnation hearing before the Governing Body.

Improvement notices have been issued on these structures, however, compliance has not been achieved. Pre-condemnation and formal condemnation letters were issued and the time granted has expired. No action has been taken to repair or remove these properties.

Property Address	Council District
a. 422 West Skinner	III
b. 1511 North Hydraulic (Garage)	I
c. 1452 North Estelle	I
d. 536 South All Hallows	IV

These structures have defects that under Ordinance No. 28-251 of the Code of the City of Wichita, shall cause them to be deemed as dangerous and unsafe buildings, as required by State Statute for condemnation consideration.

Motion--  
--carried

Mayans moved that the Resolutions to schedule a hearing and place these matters on the agenda for a Hearing before the Governing Body on December 14, 2004 at 9:30 a.m., or as soon thereafter be adopted. Motion carried 7 to 0.

#### RESOLUTION NO. 04-543

A Resolution fixing a time and place and providing for notice of a hearing before the governing body of the City of Wichita, Kansas, at which the owner, his agent, lienholders of record and occupants of property legally described as Lots 23 and 24, Supplemental Plat of Rosenthal's Fifth Addition to the City of Wichita, Kansas, Sedgwick County, Kansas known as 422 West Skinner, may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous structure, presented. Mayans moved that the Petition be approved and the Resolution be adopted. Motion carried 7 to 0. Mayans absent. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayan.

#### RESOLUTION NO. 04-544

A Resolution fixing a time and place and providing for notice of a hearing before the governing body of the City of Wichita, Kansas, at which the owner, his agent, lienholders of record and occupants of property legally described as Lots 8 and 10, on Hydraulic Avenue, Milford's Replat of Lots 1 to 29, Inclusive, on Union Avenue, and 2 to 20, Inclusive, and 1 to 29, inclusive on Orange Avenue, and 2 to 30, on Hydraulic Avenue, Spring Grove Second Addition to the City of Wichita, Kansas, Sedgwick County, Kansas known as 1511 North Hydraulic (Garage), may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous structure, presented. Mayans moved that the Petition be approved and the Resolution be adopted. Motion carried 7 to 0. Mayans absent. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

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## RESOLUTION NO. 04-545

A Resolution fixing a time and place and providing for notice of a hearing before the governing body of the City of Wichita, Kansas, at which the owner, his agent, lienholders of record and occupants of property legally described as Lots 6 and 8, on Goethe, now Estelle, Rose Hill Addition to the City of Wichita, Kansas, Sedgwick County, Kansas known as 1452 North Estelle, may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous structure, presented. Mayans moved that the Petition be approved and the Resolution be adopted. Motion carried 7 to 0. Mayans absent. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## RESOLUTION NO. 04-546

A Resolution fixing a time and place and providing for notice of a hearing before the governing body of the City of Wichita, Kansas, at which the owner, his agent, lienholders of record and occupants of property legally described as Lots 28, on All Hallows, the Jo-Mar Subdivision,, Wichita, Sedgwick County, Kansas known as 536 South All Hallows, may appear and show cause why such structure should not be condemned and ordered repaired or demolished as a dangerous structure, presented. Mayans moved that the Petition be approved and the Resolution be adopted. Motion carried 7 to 0. Mayans absent. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## BILL OF SALE

### SANITARY SEWER SEGMENT - BILL OF SALE. (DISTRICT VI)

Agenda Report No. 04-0970

Horizon Milling, LLC, 715 E. 13th Street, is a joint venture controlled by Cargill, Incorporated. Horizon Milling intends to construct a building over a City sanitary sewer line. The proposed construction is between City manhole number 5548-294 and City manhole number 5548-288. This segment consists of 611.5 feet of 8-inch vitreous clay pipe, located approximately 3.5 feet to 5 feet below the surface of the property owned by Cargill at 715 East 13th Street.

Horizon Milling has asked the City to grant ownership of this particular segment of line to Cargill. Since the segment of the sanitary sewer that will be under the proposed building serves only the Cargill property, and will be difficult to maintain due to being underneath a building, Staff recommends transferring ownership to Cargill. A building permit will be required under applicable zoning codes.

Cargill has agreed that the sewer line will not be connected to serve a facility that is not on this property and agrees to take responsibility for all maintenance for this segment of sewer line. The City would relinquish and abandon all rights, title and interest in easements relating to these sanitary sewer line segments.

There are no costs or revenues associated with the sale.

Motion--  
--carried

Mayans moved that the Bill of Sale be approved and the necessary signatures authorized. Motion carried 7 to 0.

## ABATEMENT

### ABATEMENT OF DANGEROUS AND UNSAFE STRUCTURES.

Agenda Report No. 04-0971

The Office of Central Inspection (OCI) supports neighborhood maintenance and improvement through abatement of public nuisances under Titles 18 and 20 of the City Code. State law and local ordinances allow the City to demolish or secure private property that is in violation of Housing and Building Code standards, after proper notification of the responsible party/parties. A private contractor performs the work, and the Office of Central Inspection bills the cost to the property owner.

State law and City ordinance allow placement of the demolition and board-up costs as a special

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property tax assessment if the property owner does not pay. Payment has not been received for the nuisance abatements in question, and OCI is requesting permission for the Department of Finance to process the necessary special assessments.

Statements of Charges will be mailed to the property owners on October 22, 2004. The property owners have 30 days from date of statement to pay their assessment and avoid paying interest. The interest added to the principal amount will be determined by the rate at which the July 2004 bonds sold. The principal and interest will then be spread for 1-year and placed on the 2005 tax roll. The assessments are in accordance with City Code 18.16.070, 18.16.080 and 18.16.090.

Motion--  
--carried

Mayans moved that the proposed assessments be approved and the ordinance be placed on first reading. Motion carried 7 to 0.

## ORDINANCE

An Ordinance making a special assessment to pay for the removal of certain structures, being dangerous and unsafe buildings, which have been declared a nuisance (building condemnation) under the provision of Sections 18.16.010 to 18.16.090 of the Code of the City of Wichita, Kansas, introduced and under the rules laid over.

### CITY V. LAMAR

#### **PAYMENT OF JUDGMENT IN CITY V. LAMAR, ET.AL. EAST KELLOGG PROJECT. (DISTRICT II)**

Agenda Report No. 04-0972

The City initiated eminent domain proceedings to acquire property at 9208 E. Kellogg in connection with a project to improve East Kellogg/U.S. Highway 54 from Rock Road to the East Turnpike. The owners of the property who had an interest in a billboard located on the property filed an appeal from the court appointed appraisers award of \$30,000. This matter went to trial and the jury awarded the property owners \$67,100 as compensation for the taking of their property and billboard lease.

The City is obligated to pay the difference between the amount it paid with the court appointed appraisers award (\$30,000) and the judgment. This is \$37,100. In addition, this judgment has accrued interest in the amount of \$2976.13 and bears interest at the rate of \$6.10 per day after July 12, 2004.

These judgment costs will be paid from project funds.

The City has acquired this property through eminent domain and it is obligated to pay the net amount of the judgment, together with interest to the date of payment.

Motion--  
--carried

Mayans moved that the payment to the Clerk of the District Court in the amount of \$40,076.13 to satisfy the judgment in City of Wichita v. Lamar, et al., together with interest at the rate of \$6.10 per day from July 12, 2004, to the date of payment be authorized. Motion carried 7 to 0.

### APCO

#### **GILBERT & MOSLEY-PARTIAL SATISFACTION OF JUDGMENT-APCO LIQUIDATING TRUST.**

Agenda Report No. 04-0973

On October 7, 1998, the City of Wichita filed a lawsuit against twenty-six parties in City of Wichita v. Aero Holdings, et al., No. 98-1360-MLB. The City alleged that these parties were responsible for the groundwater contamination in the Gilbert & Mosley site and sought to recover the costs of investigating and cleaning up the site. Most of the parties settled with the City, and the City went to trial against the remaining parties. On February 27, 2004, the Federal Court entered judgment in favor of the City, finding three groups of defendants liable for the City's response costs. The Court also entered an order taxing court costs on July 9, 2004. One defendant now desires to settle its future liabilities.



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The Court found that the Trustees of the APCO Oil Corporation Liquidating Trust (APCO) are liable for \$183,935.73 in past costs plus prejudgment interest, 1.72% of all future costs of groundwater remediation for Plumes ABE; and for a portion of \$143,466.42 in court costs. APCO desires to settle its liabilities and agrees to pay \$467,273.10 for this portion of the judgment. Upon payment of this sum, the City will file a Partial Satisfaction of Judgment with the Court. (The Court also found APCO liable for 100% of future source control measures taken at the former APCO facility; this settlement does not include payment of the judgment for future source control. That Item is still in negotiations and requires KDHE approval.)

The settlement sum will be paid into the Gilbert & Mosley TIF fund and be used for the expenses of the Project.

The documents have been reviewed and approved as to form by the Law Department and will be filed with the Court upon payment of the partial judgment.

Motion--  
--carried

Mayans moved that the settlement be approved and filing of the appropriate documents upon payment of the partial judgment be authorized. Motion carried 7 to 0.

## **(Item 21) SAFETY OFFICE**

### **BUDGET TRANSFER FOR THE SAFETY OFFICE.**

Kelly Carpenter

Interim Finance Director reviewed the Item.

Agenda Report No. 04-0974

The City Safety Office performs a variety of training for all City employees. However, much of this training is focused on field staff. The primary focus of this training is to provide employees with the knowledge to perform their jobs as safely as possible. In addition to ensuring the health and welfare of employees, training that reduces employee injuries also serves to reduce City funded workers compensation costs.

Annually, the Safety Office provides over 10,000 hours of training for City employees on a variety of topics. The training programs often involve a variety of equipment, including Items like large CPR manikins, TV / VCR equipment, large traffic cones, first aid kits, large collections of training manuals, a variety of protective and safety clothing, etc. Staff also responded to workplace hazards and accidents, and conduct frequent field inspections often in remote sites.

Currently, staff either utilize personal vehicles and claim mileage reimbursements, or smaller fleet daily. Neither circumstance is desirable. Personal vehicles are not adequately sized to carry needed equipment; renting fleet cars on a routine, daily basis is time consuming and inefficient. The appropriately sized vehicle for this assignment is a sport utility or small truck with an enclosed bed, in a four-wheel drive configuration.

Due to employee turnover, salary savings are available in the Risk Management budget to fund the initial vehicle acquisition, estimated at \$25,000. The on-going fleet charges, estimated at \$5,000 annually, can be absorbed within the Safety Office budget, primarily by shifting mileage and fleet rental reimbursement payments currently budgeted.

Budget transfers over \$10,000 require City Council approval.

Mayor Mayans

Mayor Mayans inquired whether there is a vehicle in the city's fleet that could be used for this and if this job is being done on a daily basis.

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Kelly Carpenter

Interim Finance Director explained that a significant amount of the training is done off-site and training is done everyday. If there is any type of equipment failure or a cave-in, they go out to those locations. They are requesting a smaller truck with a cover on the back of it to be able to haul this type of equipment around. The car is checked out on a daily basis and the motor pool is more for sporadic use and not daily usage. The charges that we are currently paying on the sporadic basis to the motor vehicle will not cover the entire cost, which is around \$3,000.00, so we will have to come up with about \$1,000.00 in our budget to pay those on-going motor vehicle charges.

Motion--  
--carried

Mayans moved that the budget transfer and the purchase of a vehicle be approved. Motion carried 7 to 0.

## **DOWNTOWN ARENA DOWNTOWN ARENA INFORMATION SEMINAR FOR CITY EMPLOYEES.**

Agenda Report No. 04-0975

On November 2, the Downtown Arena project will go to a public vote. There has been much public dialogue about this project. City of Wichita employees are interested in knowing more about the project. Many employees did not make the public forums that were hosted in cooperation with Sedgwick County and the City of Wichita. In order that the City's employees know what the project entails, the idea of hosting one or two informational seminars to inform City employees has been suggested. Sedgwick County will be hosting similar seminars for their employees.

There is a City Council Policy #20 that prohibits political campaigning and political activities in City Hall. However, there is an exception that "The City Commission (Council) may authorize the conduct of such informational campaigns on referenda issues of municipal concern as determined necessary by the Commission (Council)." Thus, it is appropriate to get City Council approval before hosting informational seminars for City employees at City Hall. Staff from the City Manager's Office will be in charge of dispersing the information. No guest speakers from either side will be present at the seminars.

No tax money will be expended for the informational seminars.

The Attorney General of Kansas previously issued an opinion (AGO 93-125) that the City of Wichita could not use public funds to promote or advocate the governing body's position on a special question election matter, but can use public funds (or staff time) to educate. The opinion was specific that public funds may not be used to promote or advocate the position of the governing body on a matter, which is before the electorate. However, public funds may be expended to educate and inform regarding issues to be voted on by the electorate.

Motion--  
--carried

Mayans moved that City employees be allowed the opportunity to attend an informational seminar at City Hall on the Downtown Arena if the employees choose to do so. Motion carried 7 to 0.

## **PROPERTY ACQ.**

### **ACQUISITION OF 2355 LAURA FOR WIDENING OF PAWNEE FROM WASHINGTON TO HYDRAULIC. (DISTRICT III)**

Agenda Report No. 04-0976

In October 2003, the City Council approved the widening of Pawnee from Washington to Hydraulic. The project will require the acquisition of several parcels of land on the north side of Pawnee. The project has not been released by KDOT for active acquisition. Plans have been submitted to KDOT for final approval. Once formal approval is received, active acquisition will begin. The owner of one of the required acquisitions has requested early acquisition due to a medical condition. KDOT has approved the acquisition as a hardship. The subject property is a 675 square foot single-family residence located at 2355 Laura. The property has two bedrooms and one bathroom, frame construction with a single car attached and two-car detached garage. The detached garage includes a finished workshop. The property is owner-occupied.

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The property was appraised at \$62,000. This amount was offered to the owners and accepted. The owner will be relocated, the improvements will be removed and the site utilized for widening Pawnee, placement of the sidewalk and landscaping.

The funding source for the project is General Obligation bonds and Federal monies. A budget of \$85,000 is requested. This includes \$62,000 for the acquisition, \$5,000 for demolition, \$17,000 for relocation and \$1,000 for title work and closing costs.

Motion--  
--carried

Mayans moved that the budget be approved and the necessary signatures authorized. Motion carried 7 to 0.

## (Item 24.) PROPERTY DISP.

### SALE OF SURPLUS PROPERTY LOCATED AT THE SOUTHWEST CORNER OF KELLOGG AND JULIA. (DISTRICT V)

John Philbrick

Property Management Director reviewed the Item.

Agenda Report No. 04-0977

An offer has been received for the City-owned parcel located at the southwest corner of Kellogg and Julia. The property has approximately 14,000 square feet and is currently undeveloped. The site is zoned General Commercial. The property was acquired for the Kellogg/Dugan Interchange project. The project required about one third of the property and the removal of the improvements.

The property was offered in last years marketing program with a suggested minimum price of \$6.00 per square foot. The highest offer received during the marketing period was \$3.00 per square foot. Subsequently, the adjacent property owner has offered \$6.00 per square foot. Because of zoning and location on Kellogg, the contract does not contain the standard restriction on car sales or billboard. The buyer intends to incorporate the parcel into its automobile rental and sale facility.

The City will receive cash consideration from the sale of the property at closing.

Mayor Mayans

Mayor Mayans stated that he would feel more comfortable if the dollar amount were listed on the purchase contract. Stated that he would like to defer this for staff to do the survey of the square feet of the property and multiply it by \$6.00 so that the Council will know the exact amount.

John Philbrick

Property Management Director stated that the contract calls for the buyer to split the survey cost with the City and for us to go ahead and do the survey prior to the contract, we would have to pay the entire cost and see if they will reimburse us.

Motion--carried

Mayans moved that the Item be deferred so that the Council has a purchase contract that indicates the amount of money that the City is receiving. Motion carried 7 to 0.

## CDC 2<sup>ND</sup> ADD.

### STORM WATER SEWER FOR POWER CDC 2<sup>ND</sup> ADDITION, NORTH OF 25<sup>TH</sup> STREET NORTH, WEST OF GROVE. (DISTRICT I)

Agenda Report No. 04-0978

On December 17, 2002, the City Council approved a storm water sewer project for Power CDC 2nd Addition, a residential development located north of 25th Street North, west of Grove. The work consists of the construction of a drainage swale west of Minnesota at 25th that will also improve drainage for an older, existing neighborhood to the east and south. MKEC engineering consultants has an agreement with the City to prepare construction plans.

As part of the design process, it has been determined that the intersection of Minnesota at 25th should be reconstructed to eliminate failing pavement and valley gutters. A supplemental agreement with MKEC for the additional design work has been prepared.

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The existing Petition totals \$44,000 with the total paid by special assessments. The estimated cost of the expanded project is \$69,000 with \$44,000 paid by special assessments and \$25,000 by the City-at-Large for intersection construction. City policy provides that intersection paving in infill areas is paid by the City-at-Large. The funding source for the City share is General Obligation Bonds and is included in the Neighborhood Improvement section of the Capital Improvement Program. The supplemental design fee is \$2,500.

State Statutes provide the City Council authority to increase the budget with City-at-Large funding.

Motion--  
--carried

Mayans moved that the amending Resolution be adopted and the supplemental design agreement approved. Motion carried 7 to 0.

## RESOLUTION NO. 04-550

Resolution of findings of advisability and Resolution authorizing constructing Storm Water Sewer No. 586 (north of 25th Street North, west of Grove) 468-83573, the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## CONTROL SYSTEMS WICHITA CITY HALL BUILDING CONTROL SYSTEMS TESTS. (DISTRICT VI)

Agenda Report No. 04-0979

The City of Wichita has a complex building controls system that allows for the remote operation of Energy Management and Life/Safety systems to our outlying City facilities. These systems are used to ensure the safety of all who visit our facilities. These systems include, but are not limited to: automatic emergency main buss transfer switch gear, emergency lighting, emergency elevator operation and controls, fire alarm panel operations, fire pump operation and control and emergency generator operation and loading.

It is now time for periodic testing of the building automated Life/Safety systems, which is mandatory, in order to maintain compliance with National Fire Protection Association and Occupational Safety and Health Administration regulations for public and employee safety. This project will allow these systems to be kept in a high state of operational readiness and will enable the City to maintain it's goal of providing a safe and comfortable environment for all staff and public visitors as part of our public safety mission.

The 2004 Capital Improvement Program, Project PB-350403 has \$50,000 budgeted for this work.

Motion--  
--carried

Mayans moved that the Resolution be adopted and the necessary signatures authorized. Motion carried 7 to 0.

## RESOLUTION NO. 04-551

A Resolution authorizing the issuance of General Obligation Bonds of the City of Wichita, Kansas to pay all or a portion of the cost for testing of building control systems for City Hall Building, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

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## RAND GRAPHICS

### REPLACEMENT OF EQUIPMENT, RAND GRAPHICS, INC. (DISTRICTS IV AND V)

Agenda Report No. 04-0980

From 1995 through 1998, City Council approved the issuance of IRBs in the amount of approximately \$5,985,000, to finance facilities for use by Rand Graphics, Inc. The bond proceeds were used to finance the costs of acquiring, constructing and equipping certain improvements to existing manufacturing facilities, at Rand's two printing plants at 2820 South Hoover and 500 South Florence. On September 15, 2004, Rand provided written notice to Emprise Bank, Trustee for the project, and to the City, of its intent to replace certain existing equipment that constitutes a portion of the Project financed by bond proceeds. Rand Graphics requests City Council approval to remove and replace certain bond-financed equipment.

This lease for the project provides for replacement of project equipment, with safeguards as to ensure that new equipment or cash equal to or exceeding the fair market value of the equipment released is brought into the trust estate. In this instance, Tenant's Counsel has advised that the value of the replacement equipment substantially exceeds the fair market value of the equipment being released.

There is no financial impact on the City resulting from the requested change.

The City Attorney's Office has reviewed the documents furnished by Tenant's Counsel and has approved the same as to form.

Motion--

Mayans moved that the Resolution be adopted and the execution of the Bills of Sale and all such other documents necessary to replace bond financed equipment be authorized and the necessary signatures authorized. Motion carried 7 to 0.

--carried

### RESOLUTION NO. 04-577

A Resolution of the City of Wichita, Kansas authorizing execution of Bills of Sale and all such other documents necessary to the replacement of certain Bond financed equipment, presented. Mayans moved that the Petition be approved and the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## PUBLIC EXIGENCY

### PUBLIC EXIGENCY PROJECT, SANITARY SEWER REPAIRS. (DISTRICT II)

Agenda Report No. 04-0981

Sewer Maintenance has an ongoing process of televising sanitary sewer mains in response to citizen complaints of sewage odors, backups and other related sanitary sewer problems. The City is responsible for service connections at the point of connection to the City's main. Occasionally, the camera will show that a service connection has sheared off, or has completely broken and become disconnected from the main. This creates a potential public health hazard and if complete collapse should occur, it could result in a costly sewage backup inside the home.

On Sept. 8, television inspection showed the connection for 110 N. Ridgewood to be broken away from the main, causing a cavity between the service pipe and the main. The connection is approximately 12 feet deep. Due to the list of priority repairs that Sewer Maintenance has, and the difficulty of the excavation being so close to an existing building, Staff recommends that this repair be done on an emergency basis. Staff contacted seven contractors with two responses received. Wichita Excavation was the low bidder at \$2,400.

Capital Improvement Program, Reconstruction of Sanitary Sewers (CIP S-4) has a budget of \$3,950,000 for 2004. This repair will be funded from Sewer Utility Revenues and Reserves and/or a future revenue bond issue.

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City Ordinance 2.64.020, "Public Exigency," authorizes the City Manager to approve work to be done by a contractor without formal bidding. The City Manager approved proceeding with the project on September 20, 2004.

Motion--  
--carried

Mayans moved that the City Manager's Public Exigency approval of the project be affirmed. Motion carried 7 to 0.

## EXPO HALL

### EXPO HALL CHILLER PLANT STUDY. (DISTRICT I)

Agenda Report No. 04-0982

There are currently 15 HVAC package units and one small chiller on the roof of Expo Hall with a total cooling capacity of 1050 tons. These units are sitting directly on the roof and every year the extreme heat causes catastrophic failure of several of these units. Due to the consistent occupancy schedules for Expo Hall, these failures have a direct impact on event visitor comfort.

This project will allow for an engineering study to be performed on these cooling systems in order to determine the feasibility and scope of an energy system redesign and reconfiguration. Replacement of these systems with a central chiller plant would ensure more positive control and greatly improve energy efficiency & savings, reduce maintenance cost and ensure customer comfort.

The 2004 Capital Improvement Program, Project PB-350406 has \$15,000 budgeted for this study and the funding source will be Convention and Tourism funds.

Motion--  
--carried

Mayans moved that the Resolution be adopted and the project and necessary signatures authorized. Motion carried 7 to 0.

### RESOLUTION NO. 04-552

A Resolution authorizing the issuance of General Obligation Bonds of the City of Wichita, Kansas to pay all or a portion of the costs of a study to consider the replacement of expo Hall Rooftop HVAC Units to change over to a Central Chilled Water System, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## EXPO HALL

### EXPO HALL HVAC EQUIPMENT REPAIRS AND REPLACEMENT. (DISTRICT I)

Agenda Report No. 04-0983

Bob Brown Expo Hall is a high usage multi function facility utilized year round. The HVAC systems utilized for customer comfort are vital to the success of these events and shows, many of which have been held in this facility for decades.

Repair and renovation work is needed to improve equipment functionality, ensure comfort of the public and enhance energy savings for the City's Energy Management program. Also, an entire system-wide tune-up by an approved contractor is needed to ensure the integrity and proper operation of these inter-connected and complex heating and cooling systems

The 2004 Capital Improvement Program, Project PB-350407 has \$75,000 budgeted for this work and the funding source will be Convention and Tourism funds.

Motion--  
--carried

Mayans moved that the Resolution be adopted and the project and necessary signatures authorized. Motion carried 7 to 0.

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## RESOLUTION NO. 04-553

A Resolution authorizing the issuance of General Obligation Bonds of the City of Wichita, Kansas to pay all or a portion of the costs of replacing six (6) rooftop HVAC package units and one small chiller at Expo Hall, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## **LAWRENCE/DUMONT LAWRENCE-DUMONT STADIUM, REPAIRS AND RENOVATIONS. (DISTRICT IV)**

Agenda Report No. 04-0984

Numerous improvements have been completed at Lawrence-Dumont Stadium in the past few years. These include new topping on the grandstands, new box seats, wheelchair lift and other Americans with Disabilities Act modifications, restoration of the lighting towers and other repairs. The 2005 Capital Improvement Program (CIP Project 350504) has \$250,000 budgeted for additional repairs and modifications.

This work includes, but is not limited to, replacement of the elevator car, replacement of the backstop netting, pressure washing and painting of the exterior of the Grandstands, repair and repainting of the interior and exterior of the Administration building, replacement of all HVAC systems and carpeting in the Administration building and Umpire's locker room and architectural & engineering redesign and possible renovation of the Dugout's if funds allow.

The 2004-2013 Capital Improvement Program, PB-350504, has a total of \$250,000 budgeted for these repairs and modifications in 2004/5. The work needs to start as soon as possible so that it can be completed by the 2005 season.

Motion--  
--carried

Mayans moved that the Resolution be adopted and the necessary signatures authorized. Motion carried 7 to 0.

## RESOLUTION NO. 04-554

A Resolution authorizing the issuance of General Obligation Bonds of the City of Wichita, Kansas to pay all or a portion of the costs for repairs and/or renovations to stadium dugouts, elevators, backstop netting, HVAC systems, fire sprinklers, berms and office carpeting at Lawrence-Dumont Stadium, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## **CLAIM**

### **SETTLEMENT OF CLAIM.**

Agenda Report No. 04-0985

This lawsuit results from a chase on foot by two Wichita Police Officers of a suspect in a domestic battery case. The suspect ran into his mother's house and she sustained a shoulder injury during the pursuit when she attempted to place herself between the officers and the suspect.

After investigating the claim, evaluating the extent of the claimed damages, and considering the risks of trial, the City determined that a resolution of this matter was appropriate. After some discussion, the City has been offered an opportunity to resolve the claim with a lump sum payment of \$40,000 as full settlement of all claims arising out of this occurrence. Settlement would include a full release of liability for the City and the individual Police Officers. Because of the risks associated with litigation, the Law Department recommends acceptance of the settlement offer.

Funding for this settlement payment is from the Tort Claims Fund.

The Law Department recommends acceptance of the offer of settlement.

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Motion--  
--carried

Mayans moved that the payment of \$40,000 as a full settlement of all possible claims arising out of the transactions which are the subject of the claim be authorized. Motion carried 7 to 0.

## WATER SALES

### DEPOSIT FOR WATER DEPARTMENT SALES/USE TAX CASE.

Agenda Report No. 04-0986

The Kansas Department of Revenue commenced a sales and use tax audit of the City in October 2003. On June 25, 2004, the Department of Revenue assessed sales and use taxes, interest and penalties totaling \$198,987, largely based on estimates, for the period from November 1, 2000 through July 31, 2001. The City made a deposit against potential liability for that period via a warrant check mailed July 19, 2004, and revised schedules issued by the Department of Revenue tend to indicate the Department of Revenue now recognizes the June 25 assessment was overstated by at least \$137,690. The amount of the overpayment due back to the City will ultimately be determined in the course of the City's pending appeal. On or about September 24, 2004, the Department of Revenue mailed a notice that it was assessing sales and use tax, penalties and interest for the separate period of August 2001 through October 2003, in the aggregate amount of \$199,704. There are some probable errors by the Department of Revenue in this assessment as well, but likely not to the extent of the errors in the previous assessment.

Like the June 25, 2004 assessments, the Department of Revenue's additional assessments will be reviewable during a 270-day "informal conference" period after the City's appeal of the additional assessments is filed. The issuance of the assessment notice also allows the City, pursuant to K.S.A. 75-5153, to deposit funds against the potential tax, penalty and interest liabilities to stop accumulation of additional interest. This is an important right, because the statutory interest rates applicable to tax assessments are very high, essentially functioning as additional penalties. The rate of statutory interest applicable to the assessment for various periods to date varies from 10% to 6%. By contrast, the average annualized rate of return on the City's pooled funds (as of the last quarterly financial report) is less than 2%.

Because the rate of interest imposed by statute is abnormally high in relation to market rates, it is in excess of the interest the City can reasonably expect to earn by retaining and investing its funds. Accordingly, it makes sense for the City to submit a deposit to limit the accrual of additional interest at the statutory rates. Funds for the deposit are available from contingency funds or savings in the Water Department budget.

The assessment notices will limit the Department of Revenue to the amounts of tax and penalty assessed therein for the additional periods covered by the assessment notices. It is probable that the actual amounts determined for the additional period in the course of the appellate process will be less. Consequently, a deposit in the amount of \$199,704 will be effective under K.S.A. 75-5153 to limit accrual of additional interest for liabilities that might be finally adjudicated in these cases.

Motion--  
--carried

Mayans moved that the deposit with KDOR to be made in an amount up to \$199,704, from funds in the Water Department budget, and Staff be authorized to make any necessary budget adjustments. Motion carried 7 to 0.



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## NEW BUSINESS

### **CONDEMNATIONS     REPAIR OR REMOVAL OF DANGEROUS AND UNSAFE STRUCTURES. (DISTRICT I)**

Kurt Schroeder     Central Inspection Supervisor reviewed the Item.

Agenda Report No. 04-0987

On August 17, 2004 a report was submitted with respect to the dangerous and unsafe conditions on the properties below. The Council adopted resolutions providing for a public hearing to be held on these condemnation actions at 9:30 a.m. or as soon thereafter, on October 12, 2004.

On August 2, 2004, the Board of Code Standards and Appeals (BCSA) held a hearing on the following properties:

Property Address	Council District
a. 2311 North Piatt	I
b. 2626 North Madison	I
c. 309 East Lincoln	I

Pursuant to State Statute, the Resolution was duly published twice on August 19, 2004, and August 26, 2004. A copy of each resolution was sent by certified mail or given personal service delivery to the owners and lien holders of record of the described property.

Motion--     Brewer moved to close the public hearing, adopt the resolution declaring the building a dangerous and unsafe structure, and accept the BCSA recommended action to proceed with condemnation allowing 10 days to start demolition and 10 days to complete removal of the structure. Any extensions of time granted to repair the structure would be conditioned on the following: (1) All taxes have been paid to date, as of October 12, 2004; (2) the structures have been secured as of October 12, 2004 and will continue to be kept secured; and (3) the premises are mowed and free of debris as of October 12, 2004 and will be so maintained during renovation. Motion carried 7 to 0.

--carried

#### RESOLUTION NO. 04-574

Resolution finding that the structure described as: Lot 19, Block 2, Wilber's Addition to Wichita, Sedgwick County, Kansas, commonly known as 2311 North Piatt, Wichita, Kansas, is unsafe or dangerous and directing the structure(s) to be made safe and secure or removed, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

#### RESOLUTION NO. 04-575

Resolution finding that the structure described as: Lot 6, Block 4, Ridgecrest, an Addition to Sedgwick County, Kansas, commonly known as 2626 North Madison, Wichita, Kansas, is unsafe or dangerous and directing the structure(s) to be made safe and secure or removed, presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

#### RESOLUTION NO. 04-576

Resolution finding that the structure described as the east 40 feet of Lots 1 and 3, on Lawrence Avenue, Lincoln Park Addition to Wichita, Sedgwick County, Kansas, commonly known as 309 East Lincoln, Wichita, Kansas, is unsafe or dangerous and directing the structure(s) to be made safe and secure or removed presented. Brewer moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

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**EISENHOWER CT.      PETITION TO PAVE EISENHOWER COURT, WEST OF HOOVER, SOUTH OF HARRY.**  
**(DISTRICT IV)**

Chris Carrier      Interim Public Works Director reviewed the Item.

Agenda Report No. 04-0988

The signatures on the Petition represent 2 of 5 (40%) resident owners and 76.04% of the improvement district area. District IV Advisory Board sponsored a September 1, 2004 neighborhood hearing on the project. The Board voted 9-0 to recommend approval of the project.

The project will provide paved access to a partially developed industrial area located west of Hoover, south of Harry.

The estimated project cost is \$100,000, with the total assessed to the improvement district. The method of assessment is the fractional basis. The estimated assessment to individual properties is \$25,000 per lot.

State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of the majority of the property in the improvement district.

Mayor Mayans      Mayor Mayans inquired whether anyone wished to be heard.

Cybil Strum      Ms. Strum stated that she has concerns with how much the sidewalk is going to cost taxpayers.

Motion--carried      Gray moved that the Petition be approved and the Resolution adopted. Motion carried 7 to 0.

## RESOLUTION NO. 04-573

Resolution of findings of advisability and Resolution authorizing improving Eisenhower Court to serve Lots 4,5,10 and 11, Block 1, Airport Industrial Park (west of Hoover, south of Harry) 472-84112, in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Gray moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

**FIRE CODE      AMENDMENTS TO TITLE 15 OF THE CITY CODE-ADOPTION OF THE 2000**  
**INTERNATIONAL FIRE CODE.**

Ed Bricknell      Fire Marshall reviewed the Item.

Agenda Report No. 04-0989

The City's current Fire Code is a model fire code called the Uniform Fire Code (UFC), 1997 Edition, and is codified in Title 15 of the City Code.

Practically all jurisdictions with a fire code have used one of the three national model fire codes as the fire code. Each of the three national model code groups has published, revised, and updated model codes on a three-year cycle and Wichita has generally reviewed, locally amended, and adopted the most recent version of the Code.

In 1994, the three national model fire code groups, (BOCA) Building Officials and Code Administrators International, (ICBO) International Conference of Building Officials, and (SBCCI) Southern Building Code Congress International joined and produced a single, unified model fire code, the International Code. The first edition of the International Fire Code was published in 2000.

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Many groups have supported the idea of a single, national model fire code, primarily because it will provide consistency and efficiency in enforcement. In Wichita, the Wichita Area Builders Association, local building contractor groups, and management groups are supportive of a new single family of codes, which include, but are not limited to the International Building Code, the International Residential Code, and the International Fire Code.

In preparation for adoption of the 2000 IFC, the Code was presented to the District Advisory Boards for their consideration and comment. In addition, the Code was presented to the Board of Code Standards and Appeals and the State Fire Marshal's Office for their consideration and comments.

The Wichita Fire Department, in order to maintain code enforcement integrity with the adopted 2000 International Building Code, is proposing the adoption of the 2000 International Fire Code.

Recently, the 2000 International Building Code was adopted. In order to maintain a commonality of Codes in Wichita, the 2000 International Fire Code is recommended for adoption. A sampling of the areas of change between the 1997 Edition of the Uniform Fire Code and the 2000 International Fire Code are the repealing, amending and creating of Section 2, which repeals provisions of the Code and replaces it with the City of Wichita Rehabilitation Code; amending Section 16 through 34 in order to maintain a commonality of Codes between the IFC and the recently adopted IBC; Section 40 which restricts individual tire piles from 5000 square feet to 3750 square feet. In addition, the Fire Code adopts the recently passed City of Wichita fire works ordinance.

1. \$610 for copies of the Fire Code Inspector's Guide.
2. \$1260.00 for 19 loose-leaf 2000-IFC Code Books.

Total: \$1870.00

The Ordinance has been approved as to form by the Law Department.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--  
--carried

Mayans moved that the first reading of the 2000 International Fire Code in its entirety be approved. Motion carried 7 to 0.

## ORDINANCE

An Ordinance amending Sections 15.01.010, 15.01.020, 15.01.030, 15.01.040, 15.01.060, 15.01.070, 15.01.080, 15.01.090, 15.01.100, 15.01.110, 15.01.120, 15.01.150, 15.01.160, 15.01.170, 15.01.180, 15.01.190, 15.01.200, 15.01.210, 15.01.230, 15.01.240, 15.01.250, 15.01.260, 15.01.280, 15.01.300, 15.01.310, 15.01.320, 15.01.330, 15.01.340, 15.01.350, 15.01.360, 15.01.370, 15.01.390, 15.01.400, 15.01.430, 15.01.450, 15.01.460 of the Code of the City of Wichita, Kansas, and creating Sections 15.01.050, 15.01.130, 15.01.140, 15.01.220, 15.01.270, 15.01.290, 15.01.380, 15.01.410, 15.01.420, 15.01.440, of the Code of the City of Wichita, Kansas, all pertaining to the adoption of the 2000 International Fire Code and City of Wichita Amendments hereto, and repealing the originals of said Sections and repealing the Original of Chapter 15.01, introduced and under the rules laid over.

## **HOMELAND SECUR. STATE HOMELAND SECURITY GRANT PROGRAM.**

Norman Williams

Chief of Police reviewed the Item.

Agenda Report No. 04-0990

The City of Wichita has been notified that it has been awarded \$100,000 in non-matching grant funds under the Department of Homeland Security 2003 Part II Critical Infrastructure Protection Grant. The Kansas Highway Patrol is the State Administrative Agency for the State Homeland Security Grant Program. The grant funds are specifically designed for enhancing security of infrastructure. The facilities identified for improvements under the grant include Century II and the four Wichita Police Substations.

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The Department of Homeland Security 2003 Part II Critical Infrastructure Protection Grant has funded projects in Kansas totaling \$1,297,000. In June 2004, two projects were submitted for grant funding, Century II and the Police Substations, for a combined total amount of \$168,340. The Governor's Committee designated an award of \$100,000 to be used for either one or both of the projects. The Police and Park Departments have agreed to split the amount equally, in an effort to provide a number of security enhancements to each Department's facilities. All funding must be spent by April 30, 2005.

The City of Wichita will be reimbursed by the Kansas Highway Patrol, the State Administrative Agency for the State Homeland Security Grant Program, for grant project expenses, not to exceed \$100,000.

The contract will be reviewed and approved as to form by the Law Department.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--  
--carried

Mayans moved that the grant award be approved and the necessary signatures authorized. Motion carried 7 to 0.

## FIRE ALARMS

### **ORDINANCE AMENDMENTS PERTAINING TO THE ALARM AND FIRE ALARM SYSTEMS. CHAPTER 3.40 OF THE CODE OF THE CITY OF WICHITA.**

Robert Lee

Deputy Chief reviewed the Item.

Agenda Report No. 04-0991

In 1999, the City Council enacted substantial revisions to the Alarm Systems ordinances mandating that alarms be registered by alarm companies, increasing false alarm fees, assessing administrative penalties to alarm businesses for non-registration and transferred enforcement of the ordinance to the Police Department. As a result of the revisions, Police records indicate a reduction in false alarms of 37% from 1998 to 2003.

The amendments increase response fees for residential alarms from \$28 to \$40, residential duress alarms from \$40 to \$50 and business alarms from \$60 to \$70. The increase in fees is to continue to reduce the number of false alarms and offset the costs associated with police response to false alarms.

With the ordinance amendments, alarm companies are given additional time in which to cancel a false alarm with the Emergency Communications Center. Previously, the ordinance gave an alarm company two minutes from the point in time that the alarm is registered into the 911 data base to cancel police response and avoid the customer being billed for a false alarm fee. The time period is increased to four minutes. Based on data from the Wichita Police Department, this would assist in decreasing the number of false alarm fees assessed, but would continue to provide swift response to alarms by the Police Department.

Lastly, amendments to clarify the requirements for installation of fire alarms were included, at the request of the Wichita Fire Department. These amendments clarify that fire alarm installation and servicing must comply with all applicable codes, including fire, building and electrical codes. The Fire Department and Central Inspection are given the authority to enforce these code provisions.

As a result of our partnership with the alarm companies, on September 22, 2004, staff met with alarm companies to review proposed ordinance amendments.

The 2005 Adopted General Fund Budget was based on the proposed increase in fees.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard.

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Cybil Strum Ms. Strum asked if her smoke detector went off while cooking, would she be fined.

Robert Lee Deputy Chief stated no.

Motion--carried Mayans moved that the Ordinance be placed on first reading. Motion carried 7 to 0.

## ORDINANCE

An ordinance amending Sections 3.40.020, 3.40.030, 3.40.035, 3.40.040, 3.40.060, 3.40.070, 3.40.090, 3.40.100 and 3.40.105 and creating Section 3.40.150 of the Code of the City of Wichita, Kansas, all pertaining to alarm systems and repealing the Originals of Sections 3.40.020, 3.40.030, 3.40.035, 3.40.040, 3.40.070, 3.40.090 and 3.40.105, introduced and under the rules laid over.

## **JR CUSTOM METAL AUTHORIZE A SECOND FIVE-YEAR TAX EXEMPTION, JR CUSTOM METAL PRODUCTS, INC. (DISTRICT IV)**

Allen Bell Economic Development Director reviewed the Item.

Agenda Report No. 04-0992

On August 10, 1999, City Council approved an Economic Development Tax Exemption (EDX) for JR Custom Metal Products, Inc. ("JR Custom") to assist with expansion of the companies manufacturing operations. Under the City's Business Incentive Policy, JR Custom qualified for a 93.25 percent tax exemption for real and personal property for a five-year period, and a 46.62 percent for a second five-year term. On December 31, 2004, the initial five-year period for a tax exemption will expire. JR Custom requests City Council extend the tax exemption to include the second five-years on the ad valorem tax exemption.

As a result of the tax exemption, JR Custom committed to undertake an expansion consisting of the construction of a 7,000 s.f. addition to their manufacturing facility, purchase of machinery and equipment, and creation of 19 new jobs within five years. A measure of initial project commitments and outcomes are as follows:

1999 Commitment	December 31, 2004
Construct new manufacturing space:	Completed 7,000 s.f. facility by December, 2004
Purchase Manufacturing Equipment	Purchased equipment worth over \$857,000
Create 19 new jobs in five years	Created 19 new jobs

Staff conducted a site-monitoring visit on July 17, 2003. JR Custom met its projection by creating 19 new permanent jobs. JR Custom increased sales by more 25% since 1999, and diversified its customer base. JR Custom's products are ultimately exported all over the United States and at least 30% Internationally.

Under the City's Business Incentive Policy, JR Custom qualifies for a 46.62 percent ad valorem tax exemption for an additional five-years on real property only. Personal property purchased in conjunction with the 1999 expansion project will be placed on the tax roll for 2004.

The second five-year tax exemption on real and personal property in conjunction with the original expansion project is at the discretion of the Council.

Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard.

Patricia Kohler President of JR Custom Metal Products thanked the Council for their support in the past for tax abatements, and is requesting their support again for the next five-years. Stated that her business employs 110 people and continues to bring new products for manufacturing in our community.

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Motion--  
--carried

Gray moved that a second five-year ad valorem tax exemption at 46.62 percent on real property only be approved. Motion carried 7 to 0.

## VIA CHRISTI

### RELEASE AND SUBSTITUTION OF PROPERTY, VIA CHRISTI HEALTH SYSTEM, INC. (DISTRICTS II, III AND VI)

Allen Bell

Director of Economic Development reviewed the Item.

Agenda Report No. 04-0993

The City of Wichita has previously issued various series of Hospital Facilities Improvement and Refunding Revenue Bonds for St. Francis Regional Medical Center, Inc. The bonds were used to acquire, construct, improve, install, equip and furnish facilities for hospital purposes, and to refund revenue bonds previously issued. On July 22, 2004, the City of Wichita received notice from Via Christi Regional Medical Center, Inc. of its intention to exercise its option to request release of certain portions of the Hospital Facilities.

Pursuant to the terms of Section 13.4, of a Sublease dated February 1, 1992, Via Christi Regional Medical Center has the option to have certain portions of the Hospital Facilities property released from the lien of the IRB trust estate. The release is sought in connection with the correction, substitution and addition of certain real estate, which is described as a part of the St. Francis Campus in the Sublease and to correct a typographical error in the interest rate contained in the 2001 Indenture. The Ordinance will also approve amendments to the Lease, Sublease and the 1999 and 2001 Indenture, to reflect the modified legal description of the properties included in the project.

There is no financial impact to the City resulting from the requested change.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--  
--carried

Mayans moved that the Ordinance authorizing the execution and delivery of a First Amendment to Bond Indentures, Third Supplemental Restated and Amended Lease, and Third Supplemental Sublease be placed on first reading.

## ORDINANCE

An Ordinance of the City of Wichita, Kansas, authorizing the execution of a first amendment to bond indentures by and between the City and the Bank of New York; a third supplemental restated and amended lease by and between the City and Via Christi Regional Medical Center, Inc. and a third supplemental sublease by and between the City of Wichita, Kansas and Via Christi Regional Medical Center, Inc., in connection with the release and substitution of property and correction of interest rate, introduced and under the rules laid over.

## **CASA DE-LA FAMILA ISSUANCE OF RESIDENTIAL RENTAL FACILITY REVENUE BONDS, CASA DE-LA-FAMILIA APARTMENTS. (DISTRICT VI)**

Allen Bell

Director of Economic Development reviewed the Item.

Agenda Report 04-0994

On September 18, 2001, the City Council approved the issuance of a letter of intent to issue Industrial Revenue Bonds in an amount not to exceed \$10,000,000 to finance the costs of developing a multi-family housing project (Casa Del Norte Apartments), located at 505 West 33rd Street North, in north-central Wichita. The approval of the letter of intent also served as evidence of City support for affordable housing tax credits. In addition, the City Council approved a property tax rebate under the Neighborhood Revitalization Program, equal to all taxes paid on real property improvements for a period of five years, plus an additional five years subject to Council approval.

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Since then, the original developer, C.E.R. Corporation, Inc. was unable to finalize agreements necessary to complete the project. On January 7, 2003, the City Council approved re-issuance of the Letter of Intent to Community Housing Partners, L.L.C. in the amount of approximately \$11,000,000, at the request of the owner of the project site, John McKay.

The estimated \$11 million project renamed Casa de-la-Familia Apartments will be completed in two phases. In its initial phase of development, Casa de-la-Familia Apartments will consist of six residential buildings containing a total of 81 units, and an office facility that will include two learning centers and a central laundry room. The proposed project is not only designed to provide a quality apartment living community targeted to (but not limited to) the Hispanic Community, but residents will also have available a full range of educational opportunities to help in adjusting to the American culture and gaining access to the workforce, provided by the S.E.R. Corporation, a national workforce training organization.

The project will be funded with the proceeds of tax-exempt multifamily housing revenue bonds and/or affordable housing tax credits. It is the intent of the owner to qualify 100% of the apartment units for the tax credit program by reserving the units for tenants whose income does not exceed 60% of the area median income. The City's Tax Credit Policy requires that at least 20% of the units be offered as market-rate units unless there are extenuating circumstances unless an exception is approved by the City Council. The policy allows exceptions to be made in cases where the needs of special populations are being addressed, as in this case.

An estimated analysis of the Phase I sources and uses of project funds is:

## SOURCES OF FUNDS

Bond Proceeds (Phase I)	\$4,660,000
Tax Credit Proceeds	1,259,619
Tenant Funds	<u>612,885</u>
Total Sources	\$6,532,504

## USES OF FUNDS

Land (Phase I)	\$ 70,000
Construction Costs	5,201,342
Capitalized Interest	169,072
FHA Fees	83,880
Fees and Charges	332,950
Cost of Issuance	155,060
Contingency and Working Capital	<u>520,200</u>
Total Uses	\$6,532,504

The firm of Hinkle Elkouri Law Firm, L.L.C., serves as bond counsel in the financing transaction. The bonds will be privately placed with FannieMae a Federal National Mortgage Association (FNMA) and not re-offered to investors.

Community Housing Partners, L.L.C. has complied with the Standard Conditions contained in the City's IRB Policy, with the exception of condition #7, which requires, in part, selection of general contractors based on procedures that do not exclude minority or women-owned firms. Community Housing Partners, L.L.C. has advertised for subcontractors in a way that is inclusive of minority and women-owned firms; however, Casado-MacKay, Inc., was pre-selected to serve as general contractor because of its financial interest in the project.

The developer originally requested a property tax abatement on the bond-financed improvements, which is not allowed under current IRB policy. An alternative that is provided for under current policy is a property tax rebate under the Neighborhood Revitalization Program. Under the approved guidelines for this program, the City Council may make an exception to the policy and approve a rebate of taxes on all real property improvements for a term of five years, plus an additional five years, on a case-by-case basis. Staff recommends this approach as an alternative to approving a tax abatement outside of the IRB policy.

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Community Housing Partners, L.L.C. agrees to pay all costs of issuing the bonds and agrees to pay the City's \$2,500 annual IRB administrative fee for the term of the bonds. The amount of the proposed tax rebate for Phase I is estimated to be approximately \$72,000 per year, of which \$21,000 would be from the City of Wichita, \$20,000 from Sedgwick County and \$31,000 from USD 259.

Bond documents needed for the issuance of the bonds has been prepared by bond counsel. The City's Attorney's Office will review and approve the form of bond documents prior to the issuance of any bonds. The City held a public hearing on August 7, 2001, which satisfied the public hearing requirement in the City's policy governing support for affordable housing tax credits.

Council Member Fearey Council Member Fearey inquired about the learning centers.

Richard Lopez Mr. Lopez explained that the learning centers are primarily restricted for the use of the residents of the facility. Stated that they will have 20 computers in each center, which will be open during the day for the resident's use and during the evening for when they conduct classes for adults that are not able to attend during the day. Stated that he is hoping that the children will use the centers for doing their homework when they come home from school.

Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion-- Fearey moved that the public hearing be closed; the Bond Ordinance be placed on first reading approving the Bond documents for the issuance of Residential Rental Facility Revenue Bonds in an amount not-to-exceed \$5,000,000; the Bond Placement Agreement be approved; a 100% property tax rebate under the Neighborhood Revitalization Program for a term of five years, plus an additional five years subject to City Council review be approved and the necessary signatures authorized. Motion --carried carried 7 to 0.

## **RYAN INTERNATIONAL**

### **PUBLIC HEARING AND APPROVAL OF A LETTER OF INTENT FOR INDUSTRIAL REVENUE BONDS FOR RYAN INTERNATIONAL AIRLINES. (DISTRICT VI)**

Allen Bell Director of Economic Development reviewed the Item.

Agenda Report No. 04-0995

On December 8, 1998, the City Council approved the issuance of Industrial Revenue Bonds in the amount of \$2.7 million to Ryan International. The bonds were used to finance the renovation of an existing building at 266 N. Main in downtown Wichita to serve as Ryan's corporate headquarters. A ten-year 100% property tax exemption was granted on the improvements. Rubloff Wichita, L.L.C. (Rubloff Wichita) is requesting the issuance of a one-year letter of intent for Industrial Revenue Bonds (IRBs) in an amount not to exceed \$3,500,000. Bond proceeds will be used for the acquisition of the land and building for Ryan International Airlines' corporate headquarters in downtown Wichita. Rubloff Wichita is also requesting the City Council's approval of a 100% five-year tax exemption on IRB-financed property and a second five-year exemption upon City Council review and approval. The building will be leased to Rubloff Wichita, L.L.C. and subleased to Ryan International Airlines, Inc.

Ryan International is a certified air carrier licensed by the Federal Aviation Administration and the U.S. Department of Transportation. It operates passenger and freight service aircraft on a contractual basis for a variety of clients worldwide, including airlines, charter services, and corporations. It currently operates a fleet of twenty-two aircraft consisting of Boeing 727s, 737s, 757s, Douglas MD 80's and Airbus A-320s. Ryan has major bases in Chicago, Minneapolis, Milwaukee, Atlantic City, Detroit, Dallas, Cleveland and Oakland.

Ryan International was purchased earlier this year by individuals associated with Rubloff Development Group, Inc., a diversified company located in Rockford, Illinois. Rubloff is a nationwide developer and owner of commercial real estate, including the mall in Hutchinson. In addition to other enterprises, Rubloff principals also owned a charter airline company, which was operated contractually by Ryan. The Rubloff charter aircraft service is now merged with Ryan International and plans for the company



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include starting a scheduled airline service from major markets to resort destinations. In addition to leasing aircraft, as has been Ryan's past practice, Ryan now owns a fleet of jetliners and plans call for the acquisition of additional aircraft.

The proceeds of the proposed \$3.5 million bond issue will be used to purchase a Class A corporation headquarters for Ryan International Airlines, Inc. The building is currently owned by Ryan Properties, L.C., which is owned by Ron and Renee Ryan, subject to an IRB lease, and subleased to Ryan International. The building has 54,000 s.f. of office and common space located on two floors, and an enclosed parking for 60 cars underneath the building.

Ryan International currently employs 150 highly paid skilled employees into the downtown core area. As a result of the acquisition and merger, Rubloff Wichita plans to add 100 new employees to Ryan's Wichita workforce within five years. Rubloff Wichita has agreed to maintain a current EEO/AA plan on file with the City.

The firm Hinkle Elkouri L.L.C. will serve as bond counsel for the transaction. Rubloff Wichita L.L.C. or an affiliate will purchase the bonds as a private placement and not re-offered them for public sale. The Company agrees to comply with the City's requirements contained in the Standard Letter of Intent Conditions. The cost/benefit analysis based on the fiscal and economic impact model of the Wichita State University's Center for Economic Development and Business Research reflects cost/benefit ratios as follows:

City	1.72 to one
County	2.88 to one
USD 259	1.24 to one
State	2.97 to one

The Company agrees to pay all costs of issuing the bonds and the City's \$2,500 annual IRB administrative fee for the term of the bonds.

The estimated first year's taxes on Rublof Wichita's proposed \$3,500,000 expansion would be \$99,425, on real property, based on the 2003 mill levy. Using the allowable tax exemption of 100 percent, the City would be exempting (for the first year) \$99,425 of new taxes from the real property tax rolls. The tax exemption would be shared among the taxing entities as follows: City - \$27,916; County/State - \$26,527; and USD 259 - \$44,982.

Bond documents needed for the issuance of bonds will be prepared by bond counsel. The City Attorney's Office will review and approve the form of bond documents prior to the issuance of any bonds.

Council Member Lambke Council Member Lambke stated that he is not in favor of taking existing property off the tax rolls.

Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard.

Chris Flickinger Mr. Flickinger stated that he is with Ryan International Airlines and is asking that the Council consider their request. Stated that Rubloff is a very large company and brings many new ideas and a whole new game plan for Ryan International Airlines. Stated that Rubloff is acquiring aircraft for them to fly, which is something that previously all their aircrafts were from outside sources, and they did not have ownership interest in them. They project at least 100 new jobs in the Wichita area and are asking for the Council's consideration.

Cybil Strum Ms. Strum stated that she is skeptical of this issue and that a lot of airplane plants come and go.

Motion-- Fearey moved that the public hearing be closed; a Letter of Intent to Rubloff Wichita, L.L.C. for Industrial Revenue Bonds in an amount not-to-exceed \$3,500,000, subject to the Standard Letter of Intent Conditions, for a term of one-year, and grant a 100% tax abatement for bond-financed property for an initial five-year period plus an additional five years following City Council review be approved and the necessary signatures authorized. Motion carried 6 to 1 (Lambke-No).

--carried

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## WATERWALK

### WATERWALK DEVELOPER AGREEMENT AMENDMENTS. (DISTRICT I)

Allen Bell

Director of Economic Development reviewed the Item.

(Council Member Fearey momentarily absent).

Agenda Report No. 04-0996

On September 9, 2004, WaterWalk LLC ("Developer") announced that a national destination retailer will anchor the WaterWalk development. Gander Mountain, Inc., a Minnesota-based outdoor sports outfitter, which operates a chain of 65 stores, will lease space in an 88,500 sq. ft. multi-level, mixed use commercial building located on the East Bank of the Arkansas River between the Boathouse and the Kellogg Flyover. On September 21, 2004, the City Council endorsed the Developer's selection of Gander Mountain and took several actions to provide City funding for a portion of the costs to develop the destination retail store and associated public improvements. The City Council also directed staff to return with necessary amendments to the WaterWalk Development Agreement and with ordinances needed to allow for successful development and operation of the Gander Mountain project.

The WaterWalk Development Agreement was originally approved in September 2002 and was amended in December 2003. The 2003 amendments, among other changes, provided for the development of a destination retail store, to be financed with STAR bonds, a variety of tax increment financing that captures new state and local sales tax revenues generated by the project as the funding source to repay bonds used to finance public improvements and infrastructure. In order to make use of STAR bonds, the City has initiated the process of amending the East Bank Redevelopment District boundaries to include the River Corridor Project area. This will allow the City to permanently finance River Corridor Project improvements with STAR bonds while making available general obligation bond financing for the destination retailer portion of the WaterWalk Project.

Most of the changes needed for the Development Agreement relate to the Developer's requirement that the improvements associated with the destination retail store be constructed on a design-build basis, using Key Construction as the design-build contractor. The Developer's agreement with Gander Mountain requires that the store be open for business in the fall of 2005, due to seasonal influences on their type of business. The ability to complete all of the work required in that time frame necessitates the use of design-build contracting and does not allow time for competitive procurement of design-build services. Key Construction was chosen as design-build contractor, in part, because one of the owners is a partner in WaterWalk LLC and therefore shares the risk of non-performance.

The current Agreement calls for all publicly financed improvements to be constructed in compliance with City and State laws, which generally require public bidding. City Charter Ordinance No. 177 provides a procedure for waiving the bid law requirements when a project is developed under the terms of a preferred developer arrangement, such as the case with WaterWalk LLC. In addition to amending the Development Agreement, the procedure requires the City Council to adopt an ordinance specifically approving the construction under the provisions of Charter Ordinance No. 177, which must be approved by a super-majority vote.

The principal amendment to the Development Agreement involves defining the Destination Retailer Improvements to mean all improvements located within the area defined as the Destination Retailer Improvements Site, which is depicted on a site map to the amendments as a new Exhibit 15, except improvements relating to streets and utilities. This site includes the destination retailer building and site improvements, surface parking lots and a pedestrian bridge across the Arkansas River. The amendments apply the terms and conditions governing the construction of the Private Improvements to the construction of Destination Retailer Improvements. Under the Development Agreement, Private Improvements, which are designed, constructed and financed entirely by the developer, may be constructed pursuant to design-build contracts. The segments of Wichita and Water Streets, as well as a new interior street that connects the destination retailer building to Main Street will remain part of the Public Improvements to be constructed by the City, subject to public bidding.

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The other major change required in the Development Agreement is revision of the Project Development Budget, which is contained in Exhibit 4. The budget for STAR Bond Funding is being replaced by the budget for the Destination Retailer Improvements totaling \$14,152,300. It is noted that this includes \$2.6 million that represents the imputed value of the land and is not an actual cost of the project. It is also noted that the cost of street improvements in the Destination Retailer Improvements Site are included in the budget for Public Improvements. In addition, the Public Improvements budget is increased by \$1 million to enhance the public art component, as approved by the City Council on September 21, 2004.

A minor change is being made in Exhibit 5, the Phasing Schedule for the Project. The schedule calls for the Developer and City to hold a Construction Phase Closing on or before 270 days following the commencement of design work on Public Improvements. That time frame has recently expired; however, the Developer expects to have the closing before December 31, 2004. Exhibit 5 is changed accordingly. Another minor change is modification of the provision relating to the use minority and women owned businesses to reflect the Developer's intention to provide \$3,000,000 in work to such firms as part of the Destination Retailer Improvements.

Also presented for City Council approval are two ordinances required for the successful completion of the Gander Mountain project. The first is an ordinance that authorizes the Council to approve the Developer Agreement Amendment described above. This ordinance is required pursuant to Charter Ordinance No. 177 before the construction of certain improvements subject to development agreements. This ordinance, when adopted by a 2/3 vote, will allow the Developer to use its design-build contracting without public bidding to construct improvements paid from public funds.

The second ordinance is a charter ordinance that amends current law to allow publicly held companies, under certain circumstances, to sell second-hand merchandise without requiring every shareholder in the company to individually qualify for the second-hand dealer's license, and also allows stock to transfer. This charter ordinance will amend Charter Ordinance No. 192.

The City Council has amended the Capital Improvement Program and has adopted bonding resolutions that provide for G.O. funding of the Public Improvements and the City's \$7,000,000 contribution to the Destination Retailer Improvements. The Council also adopted new bonding resolutions that provide sufficient expenditure authority, including an additional \$1 million for public art.

The amendments to the WaterWalk Development Agreement, the ordinance, and the charter ordinance have been drafted and approved as to form by the Law Department. The ordinance requires a 2/3 vote for approval; the charter ordinance requires a 2/3 vote of Council, two publications, and a 60-day protest period before it is effective.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--

Brewer moved that the public hearing be closed; the first reading of the Ordinance authorizing the development agreement amendments and approving construction pursuant to the provisions of Charter Ordinance no. 177 be placed on first reading; the Second Amendment to the Developer Agreement, subject to the adoption of the Ordinance authorizing its execution be approved; first reading of the Charter Ordinance amending Charter Ordinance 192 be approved and October 26, 2004, set as the date for second reading and adoption of the ordinances. Motion carried 5 to 2 (Martz and Lambke-No).

--carried

## CHARTER ORDINANCE

A Charter Ordinance amending Section 5 of Chapter Ordinance No. 192, of the City of Wichita, Kansas, pertaining to restrictions on transfers of stock in corporations licensed as secondhand dealers, and repealing the original of said Section.

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## ORDINANCE

An Ordinance of the City of Wichita, Kansas (the "City"), approving certain construction and approving and authorizing the execution of a second amendment to Development Agreement regarding the Development of the East Bank by and between the City and WaterWalk, LLC, all pursuant to Charter Ordinance No. 177.

### FITNESS 2000

#### **PUBLIC HEARING AND REQUEST FOR LETTER OF INTENT FOR INDUSTRIAL REVENUE BONDS-FITNESS 2000 24HR HEALTH CLUB. (DISTRICT V)**

Allen Bell

Director of Economic Development reviewed the Item.

(Council Member Schlapp momentarily absent).

Agenda Report No. 04-0997

Fitness 2000 24hr Health Clubs (Fitness 2000) is requesting the issuance of a one-year letter of intent for industrial revenue bonds (IRBs) in an amount not to exceed \$5,000,000. Bond proceeds will be used to finance the cost of acquiring, constructing and equipping a new health and fitness facility. Fitness 2000 is also requesting the City Council's approval of a 50% five-year tax exemption on bond-financed improvements and a second five-year exemption upon City Council approval.

Fitness 2000 was founded in Wichita in 1996 at its original facility located at 1046 S. Oliver, in the Parklane Shopping Center. Fitness 2000 currently has two health clubs, which are 100% managed by Mohsen Etezazi, the sole shareholder of Fitness 2000 Inc., a Kansas corporation. Fitness 2000 currently serves approximately 16,000 members, supported by more than 50 employees at its locations; each known for their quality service and leading edge fitness equipment and programs. The second Fitness 2000 health club located at 2234 S. Oliver, is a women's only full service 24-hour health club, which offers a special focus on female health and fitness without any of the concerns or distractions which might otherwise be inherent in the Co-ed fitness environment.

Fitness 2000 health clubs currently offer more than 90 classes a week in Wichita, including the latest in aerobic conditioning in a variety of formats, such as step aerobics, Pilates, Bosu, and water aerobics, as well as yoga and stress management classes. Personal trainers, group fitness instructors, and membership representatives serve the membership at each location, and childcare services are also available at each location. Fitness 2000 centers have 24-hour service as well as towel service, locker rooms, saunas, hot tub, indoor track, indoor pool and steam rooms and is now seeking to expand its services to west Wichita and build further on a tradition of health and fitness.

Fitness 2000's proposed project is to construct and equip a new health and fitness facility on the southeast corner of Ridge Road and Central Ave. in West Wichita. Fitness 2000 has committed to hire 50 new employees. In addition to the standard fitness facilities present in this existing Fitness 2000 clubs, the new facility will include tennis, basketball and racquetball courts.

An analysis of the proposed uses of project funds is:

Construction of West Wichita facility	\$3,483,800
Equipment and fixtures	1,500,000
Cost of Issuance	<u>16,200</u>
Total Cost of Project:	\$5,000,000

The Company plans to privately place the bonds with a financial institution with which it has an established banking relationship. The Company agrees to comply with the City's requirements contained in the Standard Letter of Intent Conditions. The cost/benefit analysis based on the fiscal and economic impact model of the Wichita State University's Center for Economic Development and Business Research reflects cost/benefit ratios as follows:

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City	2.68 to one
County	3.08 to one
USD 259	1.80 to one
State	22.12 to one

After careful consideration, staff is recommending that the City Council deny the request from Fitness 2000 for industrial revenue bonds and property tax abatement. While Fitness 2000 is a fine business that provides valuable services to the Wichita community, it does not directly generate new wealth for the community. New wealth is generated for the community by businesses that export goods and services and import dollars from outside the area. Fitness 2000 generates most if not all of its revenue by selling its services to area residents.

IRBs and tax abatement are among the City's most valuable economic development incentive tools, and are effective when used to influence businesses that could easily locate in other regions, to locate here instead. Fitness 2000 must locate in the Wichita area in order to take advantage of the consumer market here. In staff's view, the City should reserve this important incentive for projects that truly create new wealth for the community, and not to help establish level playing fields between competing businesses.

Fitness 2000 agrees to pay all costs of issuing the bonds, including the City's \$2,500 annual IRB administrative fee for the term of the bonds. The estimated first year's taxes on Fitness' proposed \$5,000,000 expansion would be \$98,966, on real property improvements and \$36,516 on personal property, based on the 2003 mill levy. The requested 50% tax exemption would be divided among the taxing entities as follows: City - \$19,020; County/State - \$18,074; and USD 259 - \$30,647. In addition, construction costs and personal property paid for with IRB funds are exempt from state and local sales tax, which are estimated at \$237,162.

Any bond documents needed for the issuance of bonds would be prepared by the City's bond counsel. The Law Department reviews and approves the form of all bond documents prior to the issuance of any bonds.

Mayor Mayans	Mayor Mayans asked if Genesis was asked to submit a list of all of their members and their payroll when they were approved.
Allen Bell	Director of Economic Development explained that they did not submit a list of their members but did confirm documentation of the number of full-time equivalent employees that they had, which they fulfilled by providing an inclusive list of all of their employees and indicating which ones were full-time and receiving benefits and which ones were part-time. They also requested and received information relating to the percentage of sales that were related to their non-fitness part of their business.
Mayor Mayans	Mayor Mayans asked if Staff has required the same things from Fitness 2000.
Allen Bell	Director of Economic Development stated that they have not asked Fitness 2000 for documented evidence of that but have asked for the number of employees that they have. Stated that a list of members is more of a problem because of privacy issues. Stated that once Staff had determined to recommend against the proposal they did not pursue the other documentation.
Council Member Lambke	Council Member Lambke stated that cost benefit analysis done by WSU, the benefit came out twice as much as it did on Genesis. Stated that he would like to understand why there is a contradiction in our standards.

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- George Kolb City Manager explained that on July 16<sup>th</sup> he was not an employee of Wichita and arrived on the 26<sup>th</sup> of July. Stated that he cannot say what he would have recommended if he had looked at the Genesis proposal but if it was similar to the Fitness 2000, he would probably have recommended what is being recommended today. Stated that the reason that the recommendation is different is because of the questions he had asked staff and the conclusions that they arrived at together. There is no economic development expansion and that the project looks at the recycling of existing dollars within the community and that the additional employees that are added to the labor market are not the employees that the Council is intentionally targeting for economic expansion. Stated that in terms of looking at the public policy, when you are using incentives, he does not believe that the intent of the City's public policy for economic development is fulfilled when considering this particular project.
- Mayor Mayans Mayor Mayans inquired whether anyone wished to be heard.
- Mohsen Etezazi Owner of Fitness 2000, stated the he would appreciate the opportunity to have their proposal considered today. Stated that the industrial revenue bond will provide them an opportunity to pursue with a project that they have been planning on for over a year. Stated that he is shocked by the Staff's recommendation under the circumstances. Stated that he believes in the fundamental fairness of the Council and appreciate their support.
- Edgar Smith General Manger of Fitness 2000, stated that two months ago the Council approved a competitive health club and the Council gave them this leg-up. Stated that he stood before the Council that day and said that the Council would be un-leveling the playing field. Stated that he also remembers standing before the Council and was told that if he came back and had everything in line and did everything that was asked of them and now the recommendation is to deny their request. Stated that they have qualified under every policy that the City has and that their numbers are better.
- Mayor Mayans Mayor Mayans stated that he did say that and did not go ahead and adopt the new policy out of fairness to them because they did not want to impugn their opportunity. Stated that many in the community and consultants that have visited Wichita have said that we need to diversify our economy into different jobs and need to create jobs and expand the existing job base. Stated that there is a difference of opinion of what those priorities should be and that the Council tries to do the right thing with the information that they have available.
- Cybil Strum Ms. Strum stated that she is opposed to this request.
- Motion--  
-carried Fearey moved that this Item be deferred to allow staff to get the necessary list of employees and full-time equivalence. Motion carried 5 to 1, (Lambke no and Schlapp momentarily absent).

## **ORDER OF BUSINESS CHANGES TO THE ORDER OF BUSINESS AT REGULAR MEETINGS.**

- Gary Rebenstorf Director of Law reviewed the Item.
- (Council Member Martz momentarily absent).
- (Council Member Fearey momentarily absent).
- Agenda Report No. 04-0998
- On August 17, 2004, the City Council acted upon a proposed ordinance to change the Order of Business for Council meetings. The ordinance was only in effect for a trial period. At the September 28, 2004, Council Workshop, the Council reviewed the Order of Business and requested that a revised ordinance be brought forward.
- The City Council has considered changes to the order of business to accomplish a more efficient Council meeting, with a goal of having City Council meetings being more accommodating to citizens, neighborhood associations, community groups, business entities and associations, profit and non-profit companies, other governmental entities, and all others that have business to conduct with the City.

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The proposed ordinance amendment addresses two sections of the Council's Rules of Procedure to change the order of business for regular City Council meetings. One ordinance section contains the detailed order of business and the other ordinance section references the order of business.

Below is a side-by-side comparison of the new order of business (as suggested in the September 28 Workshop) with the original order of business (before the trial period).

## Revised NEW

### ORDER OF BUSINESS

--Call to Order  
--Invocation  
--Pledge of Allegiance  
--Approve the minutes of  
the previous meeting

### AWARDS AND PROCLAMATIONS

### PUBLIC AGENDA

### CONSENT AGENDA

### UNFINISHED BUSINESS

### NEW BUSINESS

### PLANNING AGENDA

### AIRPORT AGENDA

### HOUSING AGENDA

### CITY COUNCIL AGENDA

## ORIGINAL

### ORDER OF BUSINESS

--Call to Order  
--Invocation  
--Pledge of Allegiance  
--Approve the minutes of  
the previous meeting

### AWARDS AND PRESENTATIONS

### PUBLIC AGENDA

### UNFINISHED BUSINESS

### NEW BUSINESS

### CITY COUNCIL AGENDA

### CONSENT AGENDA

### PLANNING AGENDA

### AIRPORT AGENDA

### HOUSING AGENDA

The ordinance for the trial period will be repealed. This revised ordinance will establish the permanent order of business.

The Council has the authority to change the order of business at regular City Council meetings. The proposed ordinance has been drafted and approved as to form by the Law Department.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--  
--carried

Mayans moved that the changes to the order of business at regular City Council meetings be approved and the Ordinance placed on first reading. Motion carried 5 to 0, (Martz and Schlapp absent).

## ORDINANCE

An Ordinance of the City of Wichita pertaining to changes to the order of business at regular city council meetings; amending Code Sections 2.04.190 and 2.04.390; and repealing the originals of said Sections, and repealing the original of Ordinance No. 46-241S, introduced and under the rules laid over.

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## HEALTH INS.

### 2005/2006 HEALTH INSURANCE PROGRAM.

Kelly Carpenter

Acting Finance Director reviewed the Item.

Agenda Report No. 04-0999

The City uses a Health Insurance Advisory Committee (HIAC) to monitor health insurance programs for employees, and recommend new/renewal programs or changes in health coverage and cost, as required. The Committee includes representatives from the Fraternal Order of Police, International Association of Firefighters, Service Employees International, Teamsters unions, as well as the (non-union) Employees Council and Management staff.

The City Council directed staff to receive competitive bids for the City of Wichita's 2005 health insurance plan. To initiate this process, the Health Insurance Advisory Committee met. The Committee approved using an independent Health and Benefits Consultant to assist in the selection process of a health insurance plan. The Health Insurance Advisory Committee approved the Request for Proposal and authorized the Department of Finance to issue the competitive RFP. The Screening and Selection Committee recommended award of the contract to the firm of Hilb Rogal & Hobbs (formerly Dulaney, Johnston and Priest) of Wichita based on experience of previous projects and the staff as well as price. Hilb, Rogal & Hobbs (HRH) was the lowest cost of the final four at \$88,000.

The City Council approved the award on April 20, 2004 to Hilb Rogal & Hobbs to:

- Review the existing benefit plan and make recommendations for cost-effective improvements.
- Establish strategic goals and objectives for 2005 health care and benefit plans.
- Develop competitive proposal specifications for the 2005 City Health Plan (medical, vision and prescription).

The RFP requested the consultant to review other City employee benefit programs during 2005 (such as dental, group term life, disability etc.) and determine if these products are still viable and competitive.

- Screen vendors and assist with final recommendations for providers and contract terms.

The current health insurance program was selected in 2001 and the City Council approved coverage for 2004. The monthly premiums for single and family coverage, including vision and prescription drugs, are currently \$306.12 and \$855.81 respectively.

The current benefit program that expires at the end of 2004 is a combination of: hospitalization/physician coverage through Preferred Health Systems Preferred Plus of Kansas; self-insured prescription drug with a contract administered by National Medical Health Card; and vision coverage through Vision Service Plan. In addition, the City offers two voluntary dental plans, a voluntary life and accidental death insurance program, a voluntary long-term disability plan, and a voluntary long-term care plan to employees. Employees pay the entire cost of the voluntary plans.

On July 26, 2004, the City issued a competitive Request for Proposal (RFP) for Medical, Prescription Drug, Disease Management and Nurse Line Services. Proposals were due August 18, 2004.

The City of Wichita received the following proposals:

Fully Insured Medical and Prescription Drug – Coventry Health Care of Kansas

Fully Insured Medical Only – Preferred Health Systems, Blue Cross Blue Shield of Kansas, Coventry Health Care of Kansas

Self Insured Medical Only – Blue Cross Blue Shield of Kansas, CIGNA HealthCare, Coventry Health Care of Kansas, Humana

Self Insured Prescription Drug Only - NMHCRx, Blue Cross Blue Shield of Kansas, CareMark, CBCA, CIGNA HealthCare, Eckerd Health Services, Employee Benefit Resources, Group Benefit Services, Inc., Humana, Prescription Solutions, Systemed, Walgreens

Disease Management – Corosolutions, Harris Health Trends and Matria

Nurse Line – CBCA, Cigna and Humana



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A Screening and Selection Committee (including the Mayor, Council Member Martz and union representatives) interviewed the top three medical providers (Coventry, Preferred Plus and Blue Cross/Blue Shield) and the top two self-insured prescription drug providers: Eckerd Health and SysMed. The Disease Management component was issued as part of the RFP as a compliment to a self-insured medical plan. The Selection Committee did not interview Disease Management providers since the most responsive medical proposal was for a fully insured medical quotation. Stand-alone Nurse Line services were not explored since these services are included in Coventry's fully insured proposal at no additional cost.

The Health Insurance Advisory Committee reviewed the recommendations on September 30, 2004. Coventry HealthCare was selected as the preferred vendor as being most responsive to the Request For Proposal. Coventry was the low responder for the 2005 fully insured medical plan and insured prescription drug plan, with a total estimated aggregate cost for both medical and prescription of \$20,851,766 (exclusive of any plan changes). This is approximately 3.3% less than the current medical and prescription drug plan. Coventry Health Care also provided a 2006 rate cap guarantee of not more than 10.9%, which is recommended for acceptance. In addition, Coventry uses an "open access" network that does not require a Primary Care Physician (PCP). Therefore, network disruption for participants should be minimal. Coventry provides an online Health Risk Appraisal to City participants at no additional cost. The City is also requiring Coventry to provide the following:

- A \$10,000 performance guarantee for satisfaction for account management and a \$25,000 performance guarantee for implementation;
- A performance guarantee with a maximum \$55,000 at risk exclusive of the non-standard performance guarantees noted above;
- Coventry will continue to have an office in Wichita and a financial guarantee of \$25,000 is at risk if the Wichita office closes in the next two years;
- Coventry will provide the City reporting packages at no additional cost. Monthly reports include trending reports. Quarterly reports include employer group reports and prescription drug utilization reports and annual reports with Form 5500 information (IRS Annual Report).

Vision Service Plan (VSP) proposed a three-year extension of the existing fully insured vision plan with no increase in premiums and an increase in reimbursement for out of network costs from VSP to City employees.

The Committee also agreed to the following plan changes:

## Medical

- Decrease office visit co-pays from \$25 per visit to \$20;
- Increase Emergency Room co-pay from \$50 to \$100;
- Increase Ambulatory Surgery co-pay from \$100 to \$150 in 2005 and \$200 in 2006;
- Cover students age 23 and non-students to age 19 starting in 2006;

## Prescription Drug

- Implement step therapy for 2005;
- Implement lifetime cap of \$500,000 for 2006.

## Vision

- Increase in out-of network reimbursements by VSP to City employees for 2005-2007 at no additional cost.

The prescription drug plan currently has unlimited benefits. The medical plan has both annual and lifetime caps. With notification to employees and retirees, it is appropriate to implement a lifetime cap on prescription drugs in 2006 commensurate with the existing annual and lifetime caps on medical coverage.

The premiums for voluntary Dental, Group Term Life, Accidental Death and Dismemberment insurance, Long Term Disability, and Long Term Care coverage are entirely paid by employees. No

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changes to these plans are recommended for 2005. These plans will be evaluated during 2005 by the City's consultant.

The quote to purchase coverage with the level of co-pays and deductibles would require total monthly premiums of \$277.57/single and \$829.52/family.

City Council approval of the recommended plan, maintaining an 80%/20% premium split, would result in a premium decrease for both the City and employees. There is no substantive reduction in Plan benefits. The table below summarizes monthly premiums for the proposed action on 2005 health insurance (medical, prescription and vision):

<u>2004 Insurance Premiums</u>			<u>2005 Insurance Premiums</u>		
	<u>City Share</u>	<u>Employee Share</u>	<u>City Share</u>	<u>Employee Share</u>	
	80%	20%	80%	20%	
Single	\$244.90	\$61.22	\$222.07	\$55.50	
Family	\$684.65	\$171.16	\$663.62	\$165.90	

A financial summary of Coventry Health Care of Kansas, Inc. is on file in the Department of Finance.

Mayor Mayans

Mayor Mayans inquired whether anyone wished to be heard and no one appeared.

Motion--

Martz moved that Coventry Health Care of Kansas, Inc. as the medical and prescription drug provider for 2005 and 2006, with the modifications in co-pays/deductibles/benefits be approved; that the existing vision program with VSP until December 31, 2007 be renewed; the existing voluntary insurance programs (dental, life, disability and long term care) for 2005 be renewed and the necessary signatures be authorized. Motion carried 7 to 0.

--carried

## PLANNING AGENDA

John Schlegel

Planning Director stated that Items 47 to 57 are consent Items and that he would be reviewing Item 58.

Motion--carried

Mayans moved that Planning Items 47 to 57 be approved as presented. Motion carried 7 to 0.

## **COOPER GATE**

**SUB2004-13-PLAT OF COPPER GATE NORTH ADDITION, LOCATED ON THE NORTH SIDE OF 13<sup>TH</sup> STREET NORTH AND ON THE WEST SIDE OF 135<sup>TH</sup> STREET WEST. (DISTRICT V)**

Agenda Report No. 04-1000

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (10-0)

This site, consisting of 105 lots on 35.39 acres, has recently been annexed into Wichita's city limits. A zone change (ZON 2004-15) from LC, Limited Commercial District to SF-5, Single-Family Residential District has been approved for a portion of the site.

Petitions, 100% percent, and a Certificate of Petitions have been submitted for sewer, water, paving drainage and left-turn improvements. Restrictive Covenants were submitted to: a) create a homeowner's association to provide for the ownership and maintenance of the reserves; and b) provide four off-street parking spaces per dwelling unit on each lot that abuts a 58-foot street. An Off-Site Drainage Easement has been provided.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days. Publication of the Ordinance should be withheld until the Plat is recorded with the Register of Deeds.

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The Certificate of Petitions, Restrictive Covenants and Drainage Easement will be recorded with the Register of Deeds.

Motion--  
-carried

Mayans moved that the documents and plat be approved; the necessary signatures authorized; the Resolutions adopted and the Ordinance placed on first reading. Motion carried 7 to 0.

## RESOLUTION NO. 04-555

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-90014, (north of 13th Street, west of 135th Street West) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## RESOLUTION NO. 04-556

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-99015 (north of 13th Street, west of 135th Street West) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## RESOLUTION NO. 04-557

Resolution of findings of advisability and Resolution authorizing construction of Lateral 3, Main 4, Northwest Interceptor Sewer, 468-83907, (north of 13th Street, west of 135th Street West) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## RESOLUTION NO. 04-558

Resolution of findings of advisability and Resolution authorizing improving Storm Water Drain No. 241, 468-83908, (north of 13th Street, west of 135th Street West) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## RESOLUTION NO. 04-559

Resolution of findings of advisability and Resolution authorizing improving Aksarben from the south line of the Plat, north to the north line of Lot 19, Block A; on Decker from the east line of Aksarben, north to the south line of Kiwi, and on Kiwi from the east line of Aksarben, east to the west line of Lot 7, Block E. Aksarben Ct. from the west line of Aksarben, west to and including the cul-de-sac. Sidewalk be constructed on one side of Aksarben, Decker and Kiwi, 472-84104 (north of 13th Street, west of 135th Street West) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

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## RESOLUTION NO. 04-560

Resolution of findings of advisability and Resolution authorizing improving Aksarben from the north line of Lot 19, Block A, north to the south line of Autumn Ridge, on Autumn Ridge, from the west line of the Plat, east and south to the north line of Kiwi, on Kiwi, from the west line of Lot 7, Block E, east to the east line of the Plat, and on Decker, from the north line of Autumn Ridge, north to the north line of the Plat. Sidewalk to be constructed on one side of Autumn Ridge, Aksarben, Kiwi, and Decker, 472-84105, (north of 13th Street, west of 135th Street West) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## RESOLUTION NO. 04-561

Resolution of findings of advisability and Resolution authorizing constructing a left turn lane on 13th Street North to serve Copper Gate North Addition, 472-84106, (north of 13th Street, west of 135th Street West) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## RESOLUTION NO. 04-562

Resolution of findings of advisability and Resolution authorizing constructing a left turn lane on 135th Street West to serve Copper Gate North Addition, 472-84107, (north of 13th Street, west of 135th Street West) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210, introduced and under the rules laid over. ZON 2004-15

SUB2004-73

### **SUB2004-73-PLAT OF MIDIAN SHRINE-HOSKINSON ADDITION, LOCATED EAST OF RIDGE ROAD AND ON THE SOUTH SIDE OF 13<sup>TH</sup> STREET NORTH. (DISTRICT V)**

Agenda Report No. 04-1001

Staff Recommendation: Approve the plat without a public access easement for a bike path.

MAPC Recommendation: Approve the plat without the public access easement. (7-4)

The negative votes reflect the concern of those Commissioners regarding the need for a public access easement.

This unplatted site, consisting of one lot on 24.74 acres, is located within Wichita's city limits and is zoned SF-5, Single-Family Residential District. A conditional use (CON 2003-48) has been approved for the site for a Community Assembly use.

Petitions, all 100 percent, and a Certificate of Petitions have been submitted for sewer and left-turn lane improvements. A Restrictive Covenant was submitted to provide for the ownership and maintenance of the proposed reserves.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days.

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The Certificate of Petitions and Restrictive Covenant will be recorded with the Register of Deeds.

Motion--  
--carried

Mayans moved that the documents and plat be approved; the necessary signatures authorized and the Resolutions adopted. Motion carried 7 to 0.

## RESOLUTION NO. 04-563

Resolution of findings of advisability and Resolution authorizing construction of Lateral 133, Westlink Sewer, 468-83910, (east of Ridge, south of 13th) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## RESOLUTION NO. 04-564

Resolution of findings of advisability and Resolution authorizing constructing a left turn lane on 13th Street North to serve the westbound traffic, 472-84114, (east of Ridge, south of 13th) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## SHOAL CREEK

### **SUB2004-75-PLAT OF SHOAL CREEK THIRD ADDITION, LOCATED WEST OF 143<sup>RD</sup> STREET EAST AND SOUTH OF CENTRAL. (DISTRICT II)**

Agenda Report No. 04-1002

Staff Recommendation: Approve the plat.  
MAPC Recommendation: Approve the plat. (13-0)

This site, consisting of 18 lots on 5.51 acres, is a replat of a portion of Shoal Creek Addition. This site is located within Wichita's city limits and is zoned SF-5, Single-Family Residential District.

Petitions, all 100 percent, and a Certificate of Petitions have been submitted for paving and water improvements. Since the applicant proposes to plat narrow street right-of-way with adjacent 15-foot street drainage and utility easements, the Restrictive Covenant outlines restrictions for lot-owner use of these easements. Restrictive Covenants were also submitted to: 1) provide for the continued sharing in the ownership and maintenance responsibilities of the previously platted reserves in Shoal Creek Addition that are not included in this site; 2) allow for the creation of a lot owner's association to provide for the ownership and maintenance of the proposed reserves; and 3) provide four off-street parking spaces per dwelling unit on each lot that abuts a 32-foot street.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days.

The Certificate of Petitions and Restrictive Covenants will be recorded with the Register of Deeds.

Motion--  
--carried

Mayans moved that the documents and plat be approved, the necessary signatures authorized and the Resolutions adopted. Motion carried 7 to 0.

## RESOLUTION NO. 04-565

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89998, (west of 143rd Street East, south of Central), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

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## RESOLUTION NO. 04-566

Resolution of findings of advisability and Resolution authorizing improving Hawthorne Street from the south line of Lot 13, Block A, north to and including the Hawthorne Ct. and continuing south to the north line of Siefkes, 472-84085 (west of 143rd Street East, south of Central), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## **WOODLAWN NORTH POINTE SUB2004-85-PLAT OF WOODLAND NORTH POINTE ADDITION, LOCATED SOUTH OF 29<sup>TH</sup> STREET NORTH AND ON THE EAST SIDE OF WOODLAWN. (DISTRICT I)**

Agenda Report No. 04-1003

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (9-0)

This site, consisting of eight lots on 15 acres, is a replat of a portion of Lot 1, Hinkle's Addition. This site is located in Wichita's city limits and is zoned GO, General Office District.

Petitions, 100% percent, and a Certificate of Petitions have been submitted for water, drainage and sewer improvements. A Restrictive Covenant was submitted to create a lot owners' association to provide for the ownership and maintenance of the reserves.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days.

The Certificate of Petitions and Restrictive Covenant will be recorded with the Register of Deeds.

Motion--  
--carried

Mayans moved that the documents and plat be approved, the necessary signatures authorized and the Resolutions adopted. Motion carried 7 to 0.

## RESOLUTION NO. 04-567

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-90012, (south of 29th Street North, east of Woodlawn), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## RESOLUTION NO. 04-568

Resolution of findings of advisability and Resolution authorizing construction of Lateral 14, Main 6, Sanitary Sewer No. 23, 468-83901, (south of 29th Street North, east of Woodlawn), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## RESOLUTION NO. 04-569

Resolution of findings of advisability and Resolution authorizing improving Storm Water Sewer No. 611, 468-83902, (south of 29th Street North, east of Woodlawn), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

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## **WATERFRONT 5TH SUB2004-86-PLAT OF THE WATERFRONT FIFTH ADDITION, LOCATED ON THE NORTH SIDE OF 13<sup>TH</sup> STREET NORTH AND EAST OF WEBB ROAD. (DISTRICT II)**

Agenda Report No. 04-1004

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (9-0)

This site, consisting of three lots on 13.28 acres, has recently been annexed into Wichita's city limits. The site is zoned LI, Limited Industrial District.

Petitions, 100% percent, and a Certificate of Petitions have been submitted for water, paving and sewer improvements. This site is within the noise impact area of McConnell Air Force Base; therefore, a Restrictive Covenant and an Avigational Easement have been submitted. A Temporary Drainage Easement has also been provided

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within 30 days.

The Certificate of Petitions, Restrictive Covenant and Avigational Easement and Temporary Drainage Easement will be recorded with the Register of Deeds.

Motion--  
--carried

Mayans moved that the documents and plat be approved, the necessary signatures authorized and the Resolutions adopted. Motion carried 7 to 0.

### RESOLUTION NO. 04-570

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-90011, (north of 13th Street, east of Webb), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

### RESOLUTION NO. 04-571

Resolution of findings of advisability and Resolution authorizing construction of Lateral 47, Main 23, War Industries Sewer, 468-83897 (north of 13th Street, east of Webb), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

### RESOLUTION NO. 04-572

Resolution of findings of advisability and Resolution authorizing constructing left and right turn lanes on 13th Street to serve the Waterfront Fifth Addition, 472-84100, (north of 13th Street, east of Webb), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Mayans moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Brewer, Fearey, Gray, Lambke, Martz, Schlapp, Mayans.

## **DED2004-20 & 21 DEDICATION OF UTILITY EASEMENTS FOR PROPERTY LOCATED ON THE SOUTHEAST CORNER OF 37<sup>TH</sup> STREET NORTH AND RIDGE ROAD. (DISTRICT V)**

Agenda Report No. 04-1005

MAPC Recommendation: Accept the Dedications.

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As requirements of a lot split (Case No. SUB 2004-53), these Dedications are being submitted for construction and maintenance of public utilities.

The Dedications have been reviewed and approved by the Planning Commission.

The Dedications will be recorded with the Register of Deeds.

Motion--carried

Mayans moved that the Dedications be accepted. Motion carried 7 to 0.

**VAC2004-26**

**VAC2004-26-REQUEST TO VACATE A PORTION OF A FLOODWAY ACQUIRED BY CONDEMNATION, GENERALLY LOCATED NORTHWEST OF THE INTERSTATE HIGHWAY-235 BROADWAY AVENUE INTERCHANGE. (DISTRICT VI)**

Agenda Report No. 04-1006

Staff Recommendation: Approve.

MAPC Recommendation: Approve. (unanimously)

The applicant is requesting consideration for the vacation of the approximately 6,750-square foot floodway reserve that abuts the northwest side of the applicant's property; Lot 2, Kratzke's Addition. The Kratzke's Addition was recorded with the Register of Deeds on December 20, 1989.

The applicant proposes the vacation of the reserve for private use. There are no sewer or water lines in the floodway reserve. The floodway reserve was created by Condemnation Case #A-71454. Storm Water has reviewed the request and determined that the vacation of this portion of the reserve will not impact the function of the remaining portion of the floodway reserve. No one spoke in opposition to this request at the Subdivision Committee meeting or the MAPC's advertised public hearing, and the MAPC voted to approve the vacation. No written protests have been filed.

A certified copy of the Vacation Order will be recorded with the Register of Deeds

Motion--  
--carried

Mayans moved that the Vacation Order be approved and the necessary signatures authorized. Motion carried 7 to 0.

**ZON2004-38**

**ZON2004-38-ZONE CHANGE FROM SINGLE-FAMILY RESIDENTIAL TO GENERAL OFFICE. GENERALLY LOCATED 750 FEET EAST OF 127<sup>TH</sup> STREET EAST, NORTH OF 21<sup>ST</sup> STREET NORTH. (DISTRICT II)**

Agenda Report No. 04-1007

MAPC Recommendations: Approve, subject to platting within 1-year. Vote (11-0)

MAPD Staff Recommendations: Approve, subject to platting within 1-year.

DAB Recommendations: Not applicable.

The applicant is seeking GO General Office zoning and is vacant. The application area is .64 of an acre located 750 feet east of 127th Street East, north of 21st Street North. This land was originally platted as street right-of-way (Lindsay Circle), and a reserve area that were included in the Hawthorne Addition. In the Hawthorne Addition, Lindsay Circle was a street that intersected with 21st Street and ran northward. Now, the application area is included in a re-plat (Hawthorne Fourth Addition) of a portion of the Hawthorne Addition that eliminates the southern-most 300 feet of Lindsay Circle street right-of-way that makes Lindsay Circle a southbound street with an intersection with Camden Chase to the north), and eliminates the reserve area that originally encumbered the application area. In the original Hawthorne Addition plat, Lindsay Circle was a cul-de-sac street that intersected with 21st Street and went northward, ending in a cul-de-sac. In summary, the replat eliminates Lindsay Circle right-of-way, the Lindsay Circle intersection with 21st Street, and the reserve area initially set aside for utilities, drainage and open space.



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The property located immediately east of the site is already zoned "GO," and the application area is to be added to that that property (Lot 9, Hawthorne Fourth Addition) to expand the 21st Street "GO" zoning by approximately 125 feet to a total of 440 feet of 21st Street frontage.

The MAPC heard this request on September 9, 2004, and recommended approval (11-0). There were not any speakers for or against the application, and staff has not received any protest petitions. Since the MAPC hearing, the applicant has completed and recorded a plat containing the application area.

Motion--  
--carried

Mayans moved to concur with the findings of the MAPC, that the zone change be approved and the ordinance establishing the zone change be placed on first reading. Motion carried 7 to 0.

## ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210. ZON 2004-38

## THE MOORINGS

**CUP2003-00050 DP78, AMENDMENT #3 AND ZON2003-00048-EXTENSION OF TIME TO COMPLETE THE PLATTING REQUIREMENT FOR AN AMENDMENT TO THE MOORINGS COMMUNITY UNIT PLAN (CUP) AND A ZONE CHANGE FROM SINGLE-FAMILY RESIDENTIAL TO LIMITED COMMERCIAL. GENERALLY LOCATED NORTH OF K-96/I-235 AND WEST OF MERIDIAN. (DISTRICT VI)**

Agenda Report No. 04-1008

On November 18, 2003, the City Council approved an amendment to The Moorings Community Unit Plan and a zone change from "SF-5" Single Family Residential to "LC" Limited Commercial for approximately 14 acres located north of K-96/I-235 and west of Meridian. Approval was subject to the condition of platting the property within one year. The platting deadline is November 18, 2004, and the applicant has filed The Moorings South Addition to meet the platting requirement. The applicant has requested an extension of time to complete the plat to November 18, 2006.

Staff recommends that an extension of time to complete platting requirements be granted. The City Council may deny the request for an extension of time to complete platting, but denying the extension would declare the CUP and zone change null and void and would require reapplication and rehearing for the proposed CUP and zone change.

No legal documents are required to enact the granting of a platting extension. The granting of a platting extension is indicated via letter to the applicant noting the extended platting deadline as granted by the City Council.

Motion--  
--carried

Mayans moved that the extension of time to complete platting to November 18, 2006 be approved. Motion carried 7 to 0.

## CROSSPOINTE

**CUP2004-39 ASSOCIATED WITH ZON2004-44-CREATION WITH DP279 CROSSPOINTE COMMUNITY UNIT PLAN; ZONE CHANGE TO LIMITED COMMERCIAL. GENERALLY LOCATED AT THE SOUTHEAST CORNER OF GREENWICH ROAD AND 21<sup>ST</sup> STREET NORTH. (DISTRICT II)**

Agenda Report No. 04-1009

MAPC Recommendations: Approve, subject to platting within 1 year and conditions. (11-0)  
MAPD Staff Recommendations: Approve.  
DAB Recommendations: Not applicable.

The applicant is requesting to create a 13-parcel Community Plan containing approximately 59 acres. The property is located on the south side of 21st Street North between Greenwich Road and K-96.

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Parcel 12 (29 acres) is the main parcel. Eight small parcels are located along 21st Street North; three parcels are located along Greenwich. These small parcels average 1.3 acres in size. Parcel 13 (13 acres) is located along K-96 south of Parcel 12. The land at the extreme southeast corner of the intersection of Greenwich and 21st Street North is a 1.3-acre exception tract not included in the CUP.

The applicant has requested "LC" Limited Commercial zoning for all parcels. Requested uses would be use permitted by-right in the LC, Limited Commercial district except for correctional placement residence, outdoor storage, pawnshops, taverns, night clubs, asphalt or concrete plants, sexually oriented businesses and adult entertainment; service stations, convenience stores with gas islands, and vehicle service or repair would be limited to a combined maximum of three such uses and restricted to placement within Parcels 1-11; and restaurants with drive-in windows would be prohibited within 200 feet of residential zoning unless separated by an arterial street. Vehicle storage yards and general vehicle repair would be prohibited by the CUP and by the LC zoning.

All freestanding signs are to be monument type signs spaced a minimum of 150 feet apart. Two signs 45 feet in height with 325 square feet in maximum sign face are requested along K-96. Signs 30 feet in height with 300 square feet of maximum sign face are requested for the three major entrances on 21st and the main entrance on Greenwich. The remaining signs would be 20 feet in height with 200 square feet maximum sign face. Total signage would be limited to 0.8 times lineal frontage. Wall signs would be prohibited on the back of any façade facing residential zoning. Window signage is limited to 25 percent of the window area. Billboards and portable signs would be prohibited.

Compatibility is provided for architecture, landscaping, parking lot lighting and signage. Maximum building coverage and gross floor area is approximately 20 percent for Parcels 1-11. Coverage is 30 percent for Parcels 12 and 13, and gross floor area is 35 percent. Requested building height is 35 feet for Parcels 1-12, and 55 feet for Parcel 13. Setbacks are 35 feet along the streets and exterior property boundaries. Masonry screening walls would be required on exterior property lines per Unified Zoning Code unless parcels are developed with residential use. Cross-lot circulation and a pedestrian circulation plan are required for all parcels within the CUP.

The site is currently vacant but is part of the developing commercial node at 21st and Greenwich. It is bordered by K-96 on the east, a cemetery zoned "SF-5" Single-family Residential, and a bank, and vacant commercial property zoned "LC" Limited Commercial on the north. The property to the west, DP-274 Oak Creek and DP-266 The Woodlands is approved for a mixed-use development split fairly evenly between commercial (53 acres), office (41 acres) and residential (40 acres). The property to the south is a large residential estate, however, a request for rezoning to "LC" and a CUP (DP-277 Bruce Brown Property CUP) was recommended for approval by MAPC on August 29, 2004. More commercial development is occurring between 21st Street North and K-96, including a SuperTarget on the northwest corner of the 21st/Greenwich intersection. East of K-96, a bank is being constructed along 21st in DP-256, The Collective CUP, and large medical facility is being constructed on property zoned "GO" to the south of The Collective.

At the MAPC meeting held September 9, 2004, no citizens were present to speak. The MAPC voted (11-0) to approve subject to staff recommendations, as follows:

- A. APPROVE the zone change (ZON2004-44) subject to platting of the entire property within one year;
- B. APPROVE the Community Unit Plan (DP-274), subject to the following conditions:
  - 1. The applicant shall guarantee for a continuous accel/decel lane at major entrances on 21st Street North and Greenwich Road and southbound center left-turn lane at major openings on Greenwich Road at time of platting.
  - 2. The applicant shall guarantee proportionate share of traffic signalization for major openings at the time of platting.
  - 3. Modify P-O #28 to eliminate those portions governed by the CUP.
  - 4. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.

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5. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
6. All property included within this CUP and zone case shall be platted within one year after approval of this CUP by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
7. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-279) includes special conditions for development on this property.
8. The applicant shall submit 4 revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

Motion--

Mayans moved that the findings of the MAPC be adopted, the zone change and CUP subject to the condition of platting within one year and the recommended conditions be approved, the Planning Department be instructed to forward the ordinance for first reading when the plat is forwarded to the City Council. Motion carried 7 to 0.

--carried

**TALLGRASS EAST**

**CUP2004-38 ASSOCIATED WITH ZON2004-43, AMENDMENT TO PARCEL 3 OF DP-192 TALL GRASS EAST BUSINESS PARK CUP AND A ZONE CHANGE FROM SINGLE-FAMILY RESIDENTIAL TO GENERAL OFFICE. GENERALLY LOCATED SOUTH OF K-96 AND EAST OF WEBB ROAD. (DISTRICT II)**

Agenda Report No. 04-1010

MAPC Recommendations: Approve, vote (11-0).

MAPD Staff Recommendations: Approve.

DAB Recommendations: Not applicable.

The applicant requests an Amendment to Parcel 3 of DP-192 Tall Grass East Business Park CUP and a zone change for the subject property from "SF-5" Single Family to "GO" General Office. The subject property is 9.8acre platted reserve that is located south of K-96 and east of Webb Road and is undeveloped.

The surrounding area is characterized primarily by commercial and industrial uses along the K-96 corridor and residential uses in the Tallgrass neighborhood. The properties to the west are zoned "B" Multi-Family, "LC" Limited Commercial, and "GC" General Commercial and are developing with various medical-related uses. The property to the north is zoned "SF-5" Single Family and is part of Jabara Airport. The properties to the east are zoned "LI" Limited Industrial and are developing with various industrial uses. The properties to the south are zoned "SF-5" Single Family and are developed with single-family residences.

Parcel 3 is zoned "SF-5" Single Family, and the CUP permits drainage, landscaping, bike path, and pedestrian improvements. The applicant proposes to rezone Parcel 3 to "GO" General Office and to permit the following additional uses: office, medical service, and parking. The applicant proposes up to 64,000 square feet of office/medical service development in buildings limited to 35 feet in height and set back at least 140 feet from the residential properties to the south.

Several neighboring property owners submitted correspondence listing concerns with the request. The applicant provided the indicating how the request addresses the neighbors concerns. The applicant also met with the neighbors at their homeowner's association meeting to discuss the request and address their concerns. No formal protest petitions have been filed. At the MAPC hearing on September 9, 2004, the MAPC voted (11-0) to recommend approval of the request.

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Motion--

Mayans moved that the findings of the MAPC be adopted, the CUP amendment and zone change be Approved and the ordinance establishing the zone change be placed on first reading. Motion carried 7 to 0.

--carried

## ORDINANCE

An Ordinance changing the zoning classifications or districts of certain lands located in the City of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by City of Wichita Code Section 28.04.210, introduced and under the rules laid over. ZON 2004-43

(Item 58.)

ZON2004-41

**ZON2004-41-ZONE CHANGE FROM SINGLE-FAMILY RESIDENTIAL TO GENERAL OFFICE. GENERALLY LOCATED NORTH OF 29<sup>TH</sup> STREET NORTH AND ¼ MILE WEST OF MAIZE ROAD. (DISTRICT V)**

John Schlegel

Planning Director reviewed the Item.

MAPC Recommendations: Approve, subject to platting within one year, vote (11-0).

MAPD Staff Recommendations: Approve, subject to platting within one year.

DAB Recommendations: Not applicable.

The applicant requests "GO" General Office zoning on a 40-acre unplatted site, currently zoned "SF-5" Single-Family Residential, for an office park development. The application area is north of 29th Street North and ¼ mile west of Maize Road.

North of the application area are several large lot suburban single-family homes within the City of Maize. Southeast of the application area, across 29th Street North is an approved commercial CUP (Spencer's Cove, DP-269). Due south of the application, across 29th Street North is undeveloped SF-5 zoned property, recently platted as the residential Evergreen 5th Addition. East of the application area are several large lot, SF-20 zoned, suburban residences, several of which are proposed for a health club development. West of the application area is SF-5 zoned property, in the process of platting as the Fontana Addition. South of 29th Street North, the entire west side of Maize to 21st Street North is either under commercial development, or in the process of requesting commercial development. Development patterns would lead one to believe that the northwest corner of Maize and 29th will develop with commercial uses as well. The US Army Corps of Engineers has notified staff that the application area, as well as surrounding areas, is classified as a jurisdictional wetland, requiring a permit for development.

The MAPC heard this request on September 9, 2004, and recommended approval (11-0). One or from the subdivision southwest of the site spoke against the application with traffic concerns. Staff has received 20 protest petitions on this case. Only one of those petitions falls within the legal protest area, resulting in a 3.96% protest area.

Motion--

Martz moved that the findings of the MAPC be adopted, the zone change subject to the condition of platting within one year and the recommended condition be approved, the Planning Department be instructed to forward the ordinance for first reading when the plat is forwarded to the City Council.

--carried

Motion carried 7 to 0.

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## AIRPORT AGENDA

### **SMARTE CARTE**

#### **SMARTE CARTE, INC. – AGREEMENT.**

Bailis Bell

Director of Airports reviewed the Item.

Agenda Report No. 04-1012

Smarte Carte has provided self-service luggage carts for use by passengers in Mid-Continent Airport's terminal building since 1996, through an agreement with the Wichita Airport Authority. This agreement has reached its conclusion, and the WAA is desirous of continuing this service for travelers.

A Request for Proposal was issued to solicit proposals from companies interested in providing self-service luggage carts for a two-year period. Smarte Carte was the successful proponent, and will provide the equipment and services through September 30, 2006. Three cart management units with ten carts each are located in the baggage claim and on each concourse. The carts offer an alternative to passengers who are in need of assistance, but elect not to use the skycap services.

The fee for use of a cart is \$2.00. The WAA receives 10% of the gross sales from rental of each cart. Twenty-five cents is returned to the user who replaces the cart in the cart unit. Smarte Carte is responsible for the once weekly collection/service visits, at no cost to the WAA. Revenue to the WAA in 2003 was \$1,239.

Motion--  
--carried

Mayans moved that the agreement be approved and the necessary signatures authorized. Motion carried 7 to 0.

### **TERMINAL STUDY**

#### **TERMINAL AREA PLANNING STUDY.**

Bailis Bell

Director of Airports reviewed the Item.

Agenda Report No. 04-1013

On August 13, 2002 the City Council, acting as the Wichita Airport Authority, approved a contract with HNTB to study the current and future requirements of Mid-Continent Airport's passenger terminal area. An FAA grant supported 90% of the study expenses of \$859,584.

The study focused primarily on the terminal building itself, but included roadway access, aircraft and auto parking, security and general aesthetic improvements. A public task force was developed to provide general direction and oversight of the study and to make the final recommendation to the City Council. Once the future demands of the terminal facility were determined, extensive investigation into the capabilities of the existing terminal as compared to the capabilities and convenience of a new terminal took place. It was determined that to correct the deficiencies of the current terminal and to expand and modify it to meet future needs, that the cost would be within 15% of the cost of building a new terminal with expanded parking and roadway capabilities. At that time, the task force steered the study toward building a new terminal. A copy of this summary is also available at the Airport Administration Building and at the City Manager's Office. In order to move forward, it is now necessary to engage firms to provide additional services involving program management and financial consulting. Once those firms are in place, negotiations will commence on the design contract. The entire process, including construction, should take approximately five years. The recommendations of this study have been reviewed and endorsed by the Wichita Airport Advisory Board and the Design Council. A presentation on this subject was made to City Council at a workshop on September 14, 2004.

It has been estimated that the construction cost of a new terminal building and its associated parking and roadway improvements will be approximately \$150 Million. The study consultant and city staff, have studied in depth the feasibility of financing this project and have preliminarily determined that it is

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feasible. It will be necessary to seek Federal government assistance from the Federal Aviation Administration, Department of Transportation, and Department of Homeland Security. Further, it will be necessary to undertake deficit financing over a 20-year period to be ultimately retired by revenue from rentals, concessions, parking and an increase in the passenger facility charge from \$3.00 to \$4.50 per departing passenger. It is recommended that a financial consultant who specializes in airport financing be engaged to do an in-depth feasibility study and to assist in the corresponding financial management of the airport.

Motion--  
--carried

Mayans moved that the study recommendations be endorsed and staff be directed to solicit for program management to oversee the project. Motion carried 7 to 0.

## HOUSING AGENDA

Motion--carried

Mayans moved that the Housing Agenda be approved as presented. Motion carried 8 to 0.

## **AGENCY PLANS**

### **PUBLIC HEARING-FIVE-YEAR AND YEAR 2005 ANNUAL AGENCY PLANS.**

Agenda Report No. 04-1014

Conduct the Public Hearing, adopt the Resolution H 04-02 and authorize the necessary signatures for the required certifications for the submission of the Wichita Housing Authority (WHA) Five-Year and Year 2005 Annual Agency Plans.

On October 21, 1998, the Quality Housing and Work Responsibility Act of 1998 (QHWRA) was signed into law as part of the FY 1999 Appropriations Bill. One provision of the Act is the mandate for public housing authorities to prepare a five-year plan showing the needs and goals for that period and a more detailed annual operating plan. The annual plan must include, among other things, information on the housing needs of the locality, population served, method of rent determination, operation policies and procedures, capital improvements, unmet housing needs of families with income less than 30 percent of median income, homeownership efforts and efforts to coordinate programs.

Section 511 of the QHWRA requires the board of directors of housing authorities to conduct a public hearing to discuss the housing authority plans and to invite public comment regarding the plans. In the event that the Housing Authority Board receives public comment, written or oral, which is deemed significant enough to amend the plans, the Housing Authority Board may amend the plans and certify the plans as amended. After the Housing Authority Board has considered comments submitted at the hearing and approves the WHA Five-Year and Year 2005 Annual Plans, subject to any amendments, the WHA staff will transmit the policies and programs via an electronic template.

The certification of the Five-Year and Year 2005 Annual Plans will bring the WHA into compliance with the Quality Housing and Work Responsibility Act of 1998.

The 2005 Capital Fund Budget request is a part of the 2005 Annual Plan, which is approved with the Wichita Housing Authority Board's approval of the Plan.

Motion--  
--carried

Mayans moved that the Resolution H 04-02 be adopted and the necessary signatures relative to required certifications for the submission of the Wichita Housing Authority Five-Year and Year 2005 Annual Agency Plans be authorized. Motion carried 8 to 0.

## **HOUSING CAPITAL**

### **REPORT OF PUBLIC HOUSING CAPITAL IMPROVEMENTS.**

Agenda Report No. 04-1015

The Wichita Public Housing Authority (WHA) rents publicly owned housing to low-income households at an affordable rate based upon income and family size. Rent is based upon 30 percent of the

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household adjusted gross income. The WHA owns various single-family houses, primarily located in the inner City, and four apartment complexes: Greenway Manor, McLean Manor, Rosa Gragg and Bernice Hutcherson. WHA receives additional funding from Housing and Urban Development (HUD) to improve the physical condition of the public housing properties through renovation and rehabilitation.

The City of Wichita Housing Authority (WHA) administers a Capital Fund Program for all necessary capital improvements and corrections of deficiencies in the public housing rental inventory. The inventory includes 226 elderly-disabled apartments and 349 single-family dwellings. The Program is also used to upgrade the management facilities of the WHA to assure the ability of staff to serve the housing needs of low-to-moderate income families. The report covers the current status of all Capital Fund improvement projects.

The 2003 Capital Fund grant is in the amount of \$1,091,565. The amount of the 2004 grant has been released in the amount of \$1,049,368 and the funds should be made available to the WHA this month. The 2004 through 2007 budgeted amounts are estimated on the basis of the 2004 grant amount.

Motion--carried      Mayans moved that the Housing Authority Board report be received and filed. Motion carried 8 to 0.

## **OPERATING SUBSIDY 2005 PUBLIC HOUSING CALCULATION OF OPERATING SUBSIDY.**

Agenda Report No. 04-1016

The Wichita Housing Authority (WHA) and the Department of HUD have a mutual responsibility for the financial stability of the low-income housing program.

Pursuant to Section 9(a) of the U.S. Housing Act of 1937 and updates, the Department of HUD Operating Fund – Calculation of Operating Subsidy Form for determining the amount of operating subsidy to be paid to most Public Housing Authorities (PHA). The process serves two primary purposes. First, it is used to determine each PHA's share of the total operating subsidy funds appropriated by Congress each fiscal year. Second, it provides a reliable means of estimating the annual aggregate operating subsidy eligibility of PHAs, which serves as the basis for requesting annual appropriations from Congress.

Forms for the 2005 HUD Operating Fund Calculation of Operating Subsidy. The operating subsidy eligibility for 2005 is \$1,739,155 based on HUD's formula. This represents a 10.98% increase over the 2004 approved subsidy. Revenues for 2005 include HUD's operating subsidy, rent receipts, and other miscellaneous operating income. Any deficits incurred will be offset by Public Housing budgeted operating reserves, and will have no effect on the City's non-federal budgets.

The Wichita Housing Authority Board's adoption of the resolution approving the submission of the Calculation of Operating Subsidy is required as a prerequisite of the submission.

The budget is completely funded by HUD grants and program revenues. There is no impact on the City's non-federal budget.

Motion--      Mayans moved that the resolution approving the submission of the 2005 HUD Calculation of Operating Subsidy be adopted and the necessary signatures for submittal to HUD be authorized. Motion  
--carried      carried 8 to 0.

## **ACTIVITIES**

### **REPORT OF HOUSING AUTHORITY ACTIVITIES.**

Agenda Report No. 04-1017

The report represents Housing Authority activities, which are key benchmarks in Public Housing and Section 8 functions. This information is reported to the U.S. Department of Housing and Urban Development at regular intervals and is presented for information to the Housing Authority Board.

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It is important in the management of the City's Public Housing and Section 8 programs, that essential activities be monitored on a regular basis to ensure that key operational benchmarks are being reached and/or to identify areas in need of special attention. The reports reflect that benchmarks are being achieved.

Motion-- Mayans moved that the Housing Authority activity reports be received and filed. Motion carried  
-- carried 8 to 0.

## CITY COUNCIL

### APPOINTMENTS

### BOARD APPOINTMENTS.

Council Member Fearey Council Member Fearey requested that Pat Beckemeyer be appointed to the Juvenile Corrections Advisory Board and Marsha Carr be appointed to DAB VI to replace Annie Best.

Mayor Mayans Mayor Mayans requested that Joe Johnson be appointed to the Wichita Public Building Commission and Paul Grey to the Sedgwick County Technical Education and Training Authority.

Motion--carried Mayans moved that the appointments be approved. Motion carried 7 to 0.

### AIRTRAN

### TRANSPORTATION SERVICES AGREEMENT AMENDMENT-AIRTRAN AIRWAYS.

Bailis Bell Director of Airports reviewed the Item.

Agenda Report No. 04-1018

On May 6, 2004 the City Council entered into a one-year revenue guarantee agreement with AirTran Airways to provide three daily flights to Atlanta, Georgia operating 117 passenger Boeing 717 Aircraft.

AirTran Airways advises that due to fuel price increases and a seasonal decline in passengers, compounded with recent weather events affecting the Florida-based airline, that it is not financially feasible for AirTran to maintain three daily flights to Mid-Continent Airport. Further, AirTran advises that due to strong competitive pressures, they are unable to adjust prices to compensate for the revenue shortfall. Therefore, AirTran requests an amendment to the Transportation Services Agreement to reduce the daily service to two flights.

The reduction to two daily flights will reduce expenses of AirTran by 1/3 or approximately \$14,000 per day. The demand on the City's revenue guarantee, which has required a reimbursement of approximately \$1.2 Million during the contract period, will be reduced. It is projected that the current level of ridership will sustain two daily flights with a much smaller future draw on the guarantee.

Motion-- Mayans moved that the amendment be approved and the necessary signatures authorized. Motion  
--carried carried 7 to 0.

### RECESS

Mayans moved that the City Council recess into Executive Session at 1:10 p.m. to consider: Consultation with legal counsel on matters privileged in the attorney-client relationship relating to: pending litigation, potential litigation and legal advice and that the Council return from Executive Session no earlier than 1:30 p.m. and reconvene in the City Council Chambers of City Hall. Motion  
--carried carried 7 to 0.

### RECONVENE

The Council Members reconvened in the Council Chambers at 1:37 p.m. Mayor Mayans announced that no action was taken.



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Motion--carried      Mayans moved to close the Executive Session. Motion carried 6 to 0, Lambke absent.

Motion--carried      Mayans moved to close the regular meeting. Motion carried 6 to 0, Lambke absent.

Adjournment      The meeting adjourned at 1:30 p.m.

Karen Sublett  
City Clerk